



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

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

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

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CITATION of Administrative Rules

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

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

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

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

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

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

Schedule for Rule Making 2022

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

ISSUE NUMBER	SUBMISSION DEADLINE	ISSUE DATE
14	Wednesday, December 21, 2022	January 11, 2023
15	Wednesday, January 4, 2023	January 25, 2023
16	Friday, January 20, 2023	February 8, 2023

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****

ENVIRONMENTAL PROTECTION COMMISSION[567]

Solid waste—five-year review of rules, amend chs 100, 102, 114, 115, 120; rescind ch 104
IAB 12/14/22 **ARC 6755C**

Via video/conference call
Contact Theresa Stiner
Email: theresa.stiner@dnr.iowa.gov

January 3, 2023
1:30 p.m.

INSURANCE DIVISION[191]

Pharmacy benefits managers, amendments to ch 59
IAB 12/14/22 **ARC 6740C**
(See also **ARC 6739C**)

1963 Bell Ave., Suite 100
Des Moines, Iowa

January 5, 2023
1 to 3 p.m.

NATURAL RESOURCE COMMISSION[571]

Lifetime trout fishing license for disabled veterans; annual fishing and hunting licenses for veterans, 15.12(1)
IAB 12/14/22 **ARC 6754C**

Via video/conference call
Contact Joe Larscheid
Email: fisheries@dnr.iowa.gov

January 24, 2023
10 a.m.

NURSING BOARD[655]

Prescribing in the name of an authorized facility or school—bronchodilator canisters, bronchodilator canisters and spacers, opioid antagonists, 7.8
IAB 11/30/22 **ARC 6697C**

Board Office, Suite B
400 S.W. 8th St.
Des Moines, Iowa

December 21, 2022
9 a.m.

REVENUE DEPARTMENT[701]

Contact information—challenges to administrative levies, marijuana and controlled substances tax stamp, 25.1, 262.2
IAB 12/14/22 **ARC 6748C**

Via video/conference call
Contact Nick Behlke
Email: nick.behlke@iowa.gov

January 3, 2023
11 a.m.
(If requested)

Register of eligible candidates—assessor, deputy assessor, 103.12
IAB 12/14/22 **ARC 6747C**

Via video/conference call
Contact Nick Behlke
Email: nick.behlke@iowa.gov

January 3, 2023
10 a.m.
(If requested)

Pass-through entity composite returns, amend chs 302, 304, 307, 404, 501, 601, 700; adopt ch 405
IAB 12/14/22 **ARC 6746C**

Via video/conference call
Contact Michael Mertens
Email: michael.mertens@iowa.gov

January 13, 2023
10 to 11 a.m.
(If requested)

Income tax—COVID-19 grant exclusion, qualifying programs, 302.86, 502.30
IAB 11/30/22 **ARC 6700C**

Via video/conference call
Contact Michael Mertens
Email: michael.mertens@iowa.gov

December 21, 2022
3:30 to 4:30 p.m.
(If requested)

REVENUE DEPARTMENT[701](cont'd)

Geothermal heat pump tax credit, 304.47 IAB 11/30/22 ARC 6698C	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	December 20, 2022 9 to 10 a.m. (If requested)
Farm to food donation tax credit, 304.51, 501.45 IAB 11/30/22 ARC 6699C	Via video/conference call Contact Michael Mertens Email: michael.mertens@iowa.gov	December 21, 2022 1 to 2 p.m. (If requested)

TRANSPORTATION DEPARTMENT[761]

Iowa byways program, 132.1, 132.2, 132.3(5), 132.4 IAB 12/14/22 ARC 6749C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	January 5, 2023 9 a.m. (If requested)
RISE program, amendments to ch 163 IAB 12/14/22 ARC 6750C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	January 5, 2023 10 a.m. (If requested)
Emergency vehicle certificates, 451.2, 451.3 IAB 11/30/22 ARC 6702C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	December 22, 2022 10:30 a.m. (If requested)
Driver's licenses for undercover law enforcement officers, amendments to ch 625 IAB 11/30/22 ARC 6703C	Via conference call Contact Tracy George Email: tracy.george@iowadot.us	December 22, 2022 9 a.m. (If requested)

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Equipment distribution program—purpose, application process, eligibility, 37.1, 37.4 IAB 10/19/22 ARC 6596C	Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	December 16, 2022 9 to 11 a.m.

The following list will be updated as changes occur.

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

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

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

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ARC 6752C

ADMINISTRATIVE SERVICES DEPARTMENT[11]**Notice of Intended Action****Proposing rule making related to the annual comprehensive financial report
and providing an opportunity for public comment**

The Administrative Services Department hereby proposes to amend Chapter 40, "Offset of Debts Owed State Agencies," and Chapter 110, "Inventory Guidelines for State of Iowa Personal and Real Property," Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.111, 8A.502 and 8A.504.

Purpose and Summary

2022 Iowa Acts, House File 2126, renames a report compiled by the Department to the Annual Comprehensive Financial Report (ACFR). The name was originally changed by the Government Accounting Standards Board (GASB). These proposed amendments comport with 2022 Iowa Acts, House File 2126.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **11—40.1(8A)**, definition of “Public agency,” as follows:

“Public agency” or “agency” means a board, commission, department, including the department of administrative services, or other administrative office or unit of the state of Iowa or any other state entity reported in the Iowa ~~comprehensive annual financial report~~ Annual Comprehensive Financial Report, or a political subdivision of the state, or an office or unit of a political subdivision, or a clerk of district court. However, “public agency” or “agency” does not mean any of the following:

1. The office of the governor;
2. The general assembly, or any office or unit under its administrative authority; or
3. The judicial branch, as provided in Iowa Code section 602.1102 other than the clerk of the district court. Offset procedures uniquely applicable to debts owed to clerks of the district court are set forth in rules 11—40.10(8A) to 11—40.15(8A).

ITEM 2. Amend rule 11—110.3(7A) as follows:

11—110.3(7A) Accounting for items in aggregate. Personal property may be accounted for in aggregate. If accounting in aggregate as defined in 110.2(2), one item or component of the item shall be tagged with a prenumbered tag and all other items or components marked with an unnumbered tag or other identifiable markings.

Any item that is accounted for in the aggregate whose individual values are less than \$5000 will not be included in the ~~Comprehensive Iowa Annual Comprehensive Financial Report (CAFR) for the state (ACFR)~~, even if the amount in the aggregate exceeds the minimum level for capitalization. If a department chooses to account for items in aggregate, or report items at a level that is more restrictive than \$5000, then the department must recognize that these items will be reconciling items when reporting for the ~~CAFR~~ ACFR.

To ensure proper accountability for these items, each department will prepare written policies and procedures for tracking and recording items accounted for in aggregate.

ARC 6753C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

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

The Administrative Services Department hereby proposes to amend Chapter 63, “Leave,” Iowa Administrative Code.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 8A.104, 8A.413, 17A.3 and 17A.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 147.77 as enacted by 2022 Iowa Acts, House File 803, section 51.

Purpose and Summary

2022 Iowa Acts, House File 803, pertains to duties performed by physician assistants. 2022 Iowa Acts, House File 803, section 51, directs that the Department shall provide the same power, privilege, right, or duty by rule to a physician assistant licensed under Iowa Code chapter 148C as a physician licensed under Iowa Code chapter 148. These proposed amendments comport with 2022 Iowa Acts, House File 803.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

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

Public Hearing

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

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **63.2(2)“h”** as follows:

h. In the event of an illness or disability while on vacation, that portion of the vacation spent under the care of a physician or physician assistant shall be switched retroactively to and charged against the employee's accrued sick leave upon satisfactory proof from the physician or physician assistant of the illness or disability and its duration.

ITEM 2. Amend subrule **63.19(1)**, definition of “Catastrophic illness,” as follows:

“*Catastrophic illness*” means a physical or mental illness or injury of the employee, as certified by a licensed physician or physician assistant, that will result in the inability of the employee to work for more than 30 workdays on a consecutive or intermittent basis; or that will result in the inability of the employee to report to work for more than 30 workdays due to the need to attend to an immediate family member on a consecutive or intermittent basis.

ITEM 3. Amend subrule 63.19(4) as follows:

63.19(4) Certification requirements. The employee shall submit an application for donated leave on forms developed by the department. Appointing authorities may, at their department's expense, seek second medical opinions or updates from physicians or physician assistants regarding the status of an employee's or employee's immediate family member's illness or injury. If the employee is receiving FMLA leave, a second opinion must be obtained from a physician or physician assistant who is not regularly employed by the state.

ARC 6751C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Proposing rule making related to state driver guidelines for state vehicle use and fueling and providing an opportunity for public comment

The Administrative Services Department hereby proposes to amend Chapter 103, “State Employee Driving Guidelines,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 8A.362 as amended by 2022 Iowa Acts, House File 2128, and Iowa Code sections 8A.360, 8A.360A, 8A.368 and 8A.369 as enacted by 2022 Iowa Acts, House File 2128.

Purpose and Summary

2022 Iowa Acts, House File 2128, addresses qualified renewable fuel use in state motor vehicles. It also outlines the purchasing requirements of state motor vehicles as those requirements relate to the qualified use of renewable fuels. The Department oversees the state's fleet of vehicles. These proposed amendments comport with 2022 Iowa Acts, House File 2128. These proposed amendments also address a cleanup of language throughout Chapter 103 as part of the five-year review of rules pursuant to Iowa Code section 17A.7(2).

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

Fiscal Impact

It is impossible to determine the fiscal impact based on future fleet car usage and volume of fuel needed.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

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

Public Hearing

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 **11—Chapter 103**, title, as follows:

STATE EMPLOYEE DRIVING DRIVER GUIDELINES FOR STATE VEHICLE USE AND FUELING

ITEM 2. Amend rule 11—103.1(8A) as follows:

11—103.1(8A) Purpose. The purpose of this chapter is to provide for the assignment of state motor vehicles and for state driver guidelines for motor vehicle use, fleet assignments, maintenance, and fueling. The chapter also provides for the administration of a self-insurance program for motor vehicles owned by the state.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 3. Amend rule 11—103.2(8A) as follows:

11—103.2(8A) Definitions.

“At-fault accident” means an accident in which the state driver is determined to be 50 percent or more responsible for the accident.

“Biodiesel blended fuel” means the same as defined in Iowa Code section 214A.1.

“Biofuel” means the same as defined in Iowa Code section 214A.1.

“Cargo payload” means the net cargo weight transported. The weight of the driver, passengers, and fuel shall not be considered in determining cargo payload.

“Cargo volume” means the space calculated in cubic feet behind the vehicle driver and passenger seating area. In station wagons, the cargo volume is measured to the front seating area with the second seat laid flat behind the driver.

“Defensive driving course” means course instruction provided by the Iowa state patrol or other courses of instruction provided in person or online as approved by the director of the department.

“Department” means the department of administrative services (DAS).

“Determination period” means any 12-month period beginning January 1 and ending December 31.

“Driver improvement course” means course instruction provided by an Iowa community college.

“Ethanol blended gasoline” means the same as defined in Iowa Code section 214A.1.

“Gross vehicle weight rating (GVWR)” means the weight specified by the manufacturer as the loaded weight of a single vehicle.

“Habitual ~~violation~~ violator” means that the person a state driver who has been convicted of three or more moving violations committed within a 12-month period.

“Passengers” means the total number of vehicle occupants transported on a trip, including the driver.

“Pool car” means a vehicle assigned to the department of administrative services, fleet services.

“Preventable accident,” for purposes of this chapter, means an accident that could have been prevented or in which damage could have been minimized by proper evasive action.

“Primary use” means the utilized application exceeds 50 percent of the miles driven annually for United States Environmental Protection Agency (EPA)-designated light-duty trucks and vans and exceeds 75 percent of the miles driven annually for EPA-designated passenger sedans and wagons.

“Private vehicle” means any vehicle not registered to the state of Iowa.

“Qualified renewable fuel” means ethanol blended gasoline or biodiesel blended fuel that meets the standards and classifications for that type of motor fuel as provided in Iowa Code section 214A.2.

“Special work vehicle” means but is not limited to fire trucks, ambulances, motor homes, buses, medium- and heavy-duty trucks (~~25,999 lbs.~~ 26,000 lbs GVWR and larger), heavy construction equipment, and other highway maintenance vehicles, and any other classes of vehicles of limited application approved by the state vehicle dispatcher.

“State driver” means any person who drives a vehicle to conduct official state business other than a law enforcement officer employed by the department of public safety.

“State vehicle” means any vehicle registered to the state of Iowa, department of administrative services.

ITEM 4. Amend subrule 103.3(1) as follows:

103.3(1) *Agencies subject to vehicle assignment ~~standards~~ guidelines.* Pursuant to Iowa Code section 8A.362, the agencies listed below shall assign all vehicles within their possession, control, or use in accordance with the ~~standards~~ guidelines set forth in rule 11—103.4(8A). ~~The following agencies are subject to the vehicle assignment standards in rule 11—103.4(8A):~~

- a. The department, including all agencies required to obtain vehicles through the department;
- b. State department of transportation;
- c. Institutions under the control of the state board of regents;
- d. The department for the blind; and
- e. Any other state agency exempted from obtaining vehicles for use through fleet services.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 5. Amend subrule 103.3(2) as follows:

103.3(2) *Exceptions to vehicle assignment ~~standards~~ guidelines.* This rule shall not apply to special work vehicles, law enforcement vehicles and vehicles propelled by alternate fuels.

ITEM 6. Amend subrule 103.4(1) as follows:

103.4(1) In order to maximize the average passenger miles per gallon of motor vehicle fuel consumed, vehicles shall be assigned on the following basis:

- a. EPA-rated compact sedans ~~shall~~ may carry one or two passengers and their personal effects.
- b. EPA-rated midsize sedans or small sport utility vehicles shall carry three or more passengers and their personal effects.
- c. EPA-rated full-size sedans or midsize sport utility vehicles shall carry four or more passengers and their personal effects.
- d. to i. No change.

ITEM 7. Amend subrule 103.4(2) as follows:

103.4(2) Vehicles that are made available for temporary assignment, such as departmental pool vehicles, shall be assigned in accordance with this rule. If an appropriately classified vehicle is unavailable, a larger available classification may be substituted. Other substitutions may be authorized in consideration of passenger physical characteristics or disabilities or any other distinguishing circumstances and conditions as determined by the ~~state vehicle dispatcher~~, fleet services manager, the director of the department of transportation, or the executive director of the board of regents for the vehicles under their respective authorities.

ITEM 8. Amend rule 11—103.5(8A) as follows:

11—103.5(8A) Type of accident. The determination as to whether an accident is without fault, at fault, or preventable shall be made by the ~~risk department's fleet services manager of the department~~. In making this determination, the ~~risk fleet services manager~~ will consider all relevant information including information provided by the state driver and others involved in the accident, information provided by witnesses to the accident and information contained in any investigating officer's reports.

ITEM 9. Amend rule 11—103.7(8A) as follows:

11—103.7(8A) Required reporting. A state driver must report any potential liability, collision or comprehensive loss which occurs while conducting state business to the ~~risk department's fleet services manager of the department~~. The failure to report may result in payment of any loss from the funds of the state driver's employing agency rather than from the state self-insurance fund. All documentation, such as proof of required class completion and insurance coverage, must be provided to the ~~department risk department's fleet services~~ manager.

ITEM 10. Amend rule 11—103.11(8A) as follows:

11—103.11(8A) Access to driving records. The department has the authority to monitor the ~~Iowa department of transportation driving record~~ records of employees state drivers who drive a state vehicle or a private vehicle to conduct state business.

ITEM 11. Amend subrule 103.12(2) as follows:

103.12(2) If a state driver is involved in any one of the following occurrences, the state driver will be suspended from driving a state vehicle for a period not to exceed one year and will be required to attend ~~a driver improvement course. The driver shall attend~~ and successfully complete at the state driver's expense the next available driver improvement course after one of the following occurrences. While the state driver is suspended from driving a state vehicle, the state driver ~~will~~ may be allowed to receive mileage reimbursement from the state of Iowa for driving a private vehicle for state business. In addition, a state driver involved in one of the following occurrences shall provide proof of insurance which meets the minimum standards required by the state of Iowa, department of transportation, and proof of completion of the driver improvement course.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

- a. to c. No change.
- d. ~~Transporting~~ The state driver transports alcoholic beverages in the passenger compartment of a motor vehicle.
- e. ~~Habitual violation of traffic laws.~~ The state driver is a habitual violator of traffic laws.

ITEM 12. Amend subrule 103.16(1) as follows:

103.16(1) Fuel used in state-owned automobiles may be purchased at cost from the various state installations or garages such as but not limited to those of the state department of transportation, state board of regents, department of human services, department of corrections, or state motor pools throughout the state. Fuel may also be purchased at retail locations if a state fueling facility is not readily available. When possible, purchases shall be made using a fuel purchase card issued by the department. The fuel purchase card shall not be used to purchase motor fuel other than the classification of fuel described in subrule 103.16(2).

ITEM 13. Amend subrule 103.16(2) as follows:

103.16(2) All drivers of state motor vehicles shall fuel their assigned vehicles operating using an internal combustion engine with self-service gasohol, a mixture of 10 percent ethanol and 90 percent gasoline (E10), unless under emergency circumstances. If the vehicle is capable of running on a blend of 85 percent ethanol and 15 percent gasoline, subrule 103.16(3) applies. the highest possible classification of a qualified renewable fuel if all of the following apply:

- a. The manufacturer of the motor vehicle or the EPA expressly states that the classification of a qualified renewable fuel is compatible with the motor vehicle's normal operation.
- b. That classification of a qualified renewable fuel is commercially available in the region where the motor vehicle is being operated.
- c. No emergency situation exists that requires the immediate use of a motor fuel regardless of whether it has been blended with a biofuel.

ITEM 14. Amend subrule 103.16(3) as follows:

103.16(3) ~~Agencies shall ensure that their flexible fuel vehicles that are capable of operating on 85 percent ethanol (E85) use E85 fuel whenever an E85 fueling facility is available to the driver when fuel is needed. E85 fuel may be procured at a retail establishment if a state fueling facility is not readily available. If an E85 facility is not readily available, the driver shall not completely fill the tank with fuel when a lesser quantity will be adequate to complete the trip to an E85 fueling site. A brightly colored, highly visible renewable fuel sticker shall be affixed to a motor vehicle for which a qualified renewable fuel is compatible with the motor vehicle's normal operation. The department shall distribute the stickers to state agencies maintaining a state motor pool. A qualified renewable fuel sticker is not required to be affixed to an unmarked motor vehicle used for purposes of providing law enforcement or security.~~

ITEM 15. Amend subrule 103.16(4) as follows:

103.16(4) ~~Agencies shall ensure that their diesel vehicles operate on biodiesel blends whenever the blends are available. It is also recommended that biodiesel blends be used within six months of purchase to ensure that the quality of the fuel is maintained. As part of the department's competitive bidding procedure for the purchase of a motor vehicle operating using an internal combustion engine powered by diesel fuel, the director of the department shall require a bidder to certify that the motor vehicle's manufacturer expressly states that the engine is capable of being powered by the biodiesel blended fuel classified as B-20 or higher.~~

ITEM 16. Adopt the following new rule 11—103.17(8A):

11—103.17(8A) State fleet qualified renewable fuels compliance report. The department shall prepare a state fleet qualified renewable fuels compliance report that shall consolidate information compiled by the department in accordance with Iowa Code section 8A.369. The department shall submit the report to the governor and general assembly not later than March 1 of each year.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

ITEM 17. Amend ~~11~~—**Chapter 103**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections ~~8A.104, 8A.361 to 8A.366, 80.9 and 801.4~~ and 8A.360 to 8A.369.

ARC 6759C

COLLEGE STUDENT AID COMMISSION[283]

Notice of Intended Action

Proposing rule making related to mental health professional loan repayment program and providing an opportunity for public comment

The College Student Aid Commission hereby proposes to adopt new Chapter 31, “Mental Health Professional Loan Repayment Program,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2549.

Purpose and Summary

This proposed rule making implements a new loan repayment program enacted by 2022 Iowa Acts, House File 2549.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

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 Commission no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

Mark Wiederspan
Executive Director
Iowa College Student Aid Commission
475 S.W. Fifth Street, Suite D
Des Moines, Iowa 50309-4608
Phone: 515.725.3420
Fax: 515.725.3401
Email: mark.wiederspan@iowa.gov or administrative rules website at rules.iowa.gov

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following **new** 283—Chapter 31:

CHAPTER 31
MENTAL HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM

283—31.1(261) Definitions.

“*Eligible institution*” means an institution of higher learning governed by the state board of regents or an accredited private institution as defined in Iowa Code section 261.9.

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

“*Eligible practice area*” means a location in Iowa that is within a federal mental health shortage area, as designated by the health resources and services administration of the United States Department of Health and Human Services. Mental health professionals who serve clients who reside in eligible practice areas, including rural locations outside of city limits but within the federal mental health shortage area, are eligible to receive the loan repayment award if they are serving those clients on at least a part-time basis. If the designation status of a mental health shortage area is removed after the mental health professional signs an agreement, the mental health professional will continue to qualify for loan repayments provided that all other provisions of the agreement continue to be met.

“*Full-time*” means that an average of at least 40 hours per week are spent providing services as a mental health professional to clients in eligible practice areas.

“*Mental health professional*” means a nonprescribing individual who meets all of the following qualifications:

1. The individual holds at least a master’s degree from an eligible institution in a mental health field, including psychology, counseling and guidance, social work, marriage and family therapy, or mental health counseling.
2. The individual has at least two years of post-master’s degree clinical experience, supervised by another individual in the mental health field, in assessing and diagnosing mental health needs and problems and in providing mental health counseling services to individuals or groups on a full-time or part-time basis.
3. The individual holds a current practitioner’s license issued by an agency or board under the Iowa department of public health or its successor agency, authorizing the individual to practice as a

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

licensed psychologist, licensed independent social worker or licensed master social worker, licensed marriage and family therapist, or licensed mental health counselor.

“Part-time” means that an average of at least 28 hours, but fewer than 40 hours, per week are spent providing services as a mental health professional to clients in eligible practice areas.

283—31.2(261) Eligibility criteria.

31.2(1) *Eligible applicant.* An eligible applicant is a mental health professional or a person who agrees to become a mental health professional, agrees to sign a program agreement, and agrees to complete the obligation.

31.2(2) *Program agreement.* The program agreement specifies the obligation and other details pertaining to the program.

31.2(3) *Obligation.* An eligible applicant must agree to provide services as a mental health professional in an eligible practice area or eligible practice areas on a full-time basis for five consecutive years unless granted a waiver for part-time practice.

283—31.3(261) Awarding and payment of funds.

31.3(1) *Selection criteria.* New program agreements will be entered into with eligible applicants who are mental health professionals or agree to become mental health professionals.

31.3(2) *Priority for awards.* In the event that funding is insufficient to award all new eligible applicants, eligible applicants will be prioritized as follows:

a. Eligible applicants who are Iowa residents or eligible applicants who are members of the Iowa national guard, if requested by the adjutant general. Members of the Iowa national guard must have satisfactorily completed required guard training and must maintain satisfactory performance of guard duty. In the event that funding is insufficient to award all new eligible applicants who meet these criteria, selection of new eligible applicants will be further prioritized as follows:

(1) Eligible applicants who are students in their final year of the degree program that leads to their qualification as a mental health professional, according to the date the application was received by the commission.

(2) Eligible applicants completing the two-year post-degree clinical experience required to be a mental health professional, according to the date the application was received by the commission.

(3) All other eligible applicants based on the fiscal year in which the eligible applicant met the requirements of a mental health professional, with priority given to those meeting the requirements in the most recent fiscal year. In the event that funding is insufficient to award all new eligible applicants who met the requirements of a mental health professional within a given fiscal year, eligible applicants who met the criteria in that fiscal year will be prioritized according to the date the application was received by the commission.

b. Eligible applicants who are not Iowa residents and are not members of the Iowa national guard requested by the adjutant general. In the event that funding is insufficient to award all new eligible applicants who meet these criteria, selection of new eligible applicants will be further prioritized as follows:

(1) Eligible applicants who are students in their final year of the degree program that leads to their qualification as a mental health professional, according to the date the application was received by the commission.

(2) Eligible applicants completing the two-year post-degree clinical experience required to be a mental health professional, according to the date the application was received by the commission.

(3) Other eligible applicants based on the fiscal year in which the eligible applicant met the requirements of a mental health professional, with priority given to those meeting the requirements in the most recent fiscal year. In the event that funding is insufficient to award all new eligible applicants who met the requirements of a mental health professional within a given fiscal year, eligible applicants who met the criteria in that fiscal year will be prioritized according to the date the application was received by the commission.

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

31.3(3) *Mental health professional service requirement.* The service requirement for a full-time mental health professional is five years. The service requirement for a mental health professional who is granted a waiver for part-time practice will not exceed seven consecutive years. The mental health professional must annually verify, in a format acceptable to the commission, that the mental health professional provided mental health services in an eligible practice area or eligible practice areas on a full-time basis, or on a part-time basis if a waiver for part-time practice is granted, for each year of required service.

31.3(4) *Award amounts.* A mental health professional may receive up to \$40,000. The maximum award will be paid after the service requirement is completed.

31.3(5) *Award proration and disbursement.* An award will not exceed the outstanding balance of the mental health professional's eligible loans.

283—31.4(261) *Part-time practice.* The commission may waive the requirement that the mental health professional be employed full time if the mental health professional requests a waiver from the commission in writing and provides mental health services in eligible practice areas at least 28 hours per 40-hour workweek. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The five-year employment obligation will be proportionally extended to ensure the mental health professional provides mental health services in eligible practice areas for the equivalent of five full-time years, not to exceed a total of seven consecutive years.

283—31.5(261) *Satisfaction of employment obligation.* All obligations under the mental health professional loan repayment program are considered to be satisfied when any of the following conditions are met:

1. All terms of the agreement are met.
2. The person who entered into the agreement dies.
3. The person who entered into the agreement, due to permanent disability, is unable to meet the requirements of these rules.
4. The person who entered into the agreement has no remaining eligible loan balance to repay.

283—31.6(261) *Restrictions.* A recipient of an award under Iowa Code section 261.114 shall not be eligible for an award under this chapter. A mental health professional who is in default on a Stafford loan, SLS Loan, Grad PLUS Loan, or a Perkins/National Direct/National Defense Student Loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for repayment benefits. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5.

These rules are intended to implement 2022 Iowa Acts, House File 2549.

ARC 6738C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to employee stock ownership plan (ESOP) formation assistance and providing an opportunity for public comment

The Economic Development Authority (IEDA) hereby proposes to amend Chapter 56, "Employee Stock Ownership Plan (ESOP) Formation Assistance," Iowa Administrative Code.

Legal Authority for Rule Making

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

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.108 and 2013 Iowa Acts, House File 648.

Purpose and Summary

The ESOP Formation Assistance Program was established in 2014. The program offers reimbursement of up to 50 percent of the cost of a feasibility study for establishing an ESOP.

The proposed amendments offer clarification of program policies and streamline the approval process. Changes include the following:

- Remove outdated contact information for IEDA.
- Add clarification of eligible costs and exclude costs incurred prior to approval of financial assistance from reimbursement.
- Add clarification on application scoring related to the value of an applicant business and employees of an applicant business.
- Make engagement of outside application reviewers optional.

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 IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by IEDA no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

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. Rescind the definition of “Board” in rule **261—56.2(85GA,HF648)**.

ITEM 2. Amend rule 261—56.3(85GA,HF648) as follows:

261—56.3(85GA,HF648) Program description.

56.3(1) No change.

56.3(2) Application.

a. Each fiscal year in which funding is available, the authority will accept applications for assistance under the program and make funding decisions on a rolling basis.

b. Information on submitting an application under the program may be obtained by contacting the economic development authority. ~~The contact information is:~~

~~Iowa Economic Development Authority~~

~~Office of General Counsel~~

~~200 East Grand Avenue~~

~~Des Moines, Iowa 50309~~

~~(515)725-3000~~

~~businessfinance@iowa.gov~~

~~<http://iowaeconomicdevelopment.com/>~~

56.3(3) Approval of assistance. ~~The authority, with the assistance of an ESOP advisory panel, Authority staff~~ will consider, evaluate, and recommend applications for financial assistance under the program. ~~The authority may consult with an ESOP advisory panel will consist consisting~~ of individuals selected by the director who have demonstrated expertise in the formation and operation of ESOPs as needed. Authority staff ~~and the members of the advisory panel~~ will review applications for financial assistance and score the applications according to the criteria described in rule 261—56.4(85GA,HF648). Applications deemed to meet the minimum scoring criteria will be submitted to the director for a final funding decision.

56.3(4) No change.

56.3(5) Use of funds. An applicant shall use funds provided only for the purpose of reducing the cost of services of an independent financial professional for evaluating the feasibility of an ESOP and forming an ESOP. The authority may require documentation or other information establishing the actual costs incurred ~~for such formation~~. The financial assistance shall be provided to the applicant after the costs are incurred and on a reimbursement basis. Costs incurred prior to approval of financial assistance will not be eligible for reimbursement.

ITEM 3. Amend rule 261—56.4(85GA,HF648) as follows:

261—56.4(85GA,HF648) Program eligibility, application scoring, and funding decisions.

56.4(1) Program eligibility. To be eligible under the program, an applicant shall meet all of the following requirements:

a. and b. No change.

c. The applicant shall have a valuation that is sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide information estimating the value of the business and information about the source of that estimate. This information may be a good-faith estimate. The authority will not set a specific minimum valuation; however, applicants are advised that a business with valuation less than \$5 million may not be considered a feasible candidate for an ESOP.

d. The applicant shall have a number of employees, eligible employee types, and a total payroll that are sufficient to make an ESOP feasible. To establish that this criterion is met, the applicant shall provide relevant payroll information. The authority will not set a specific minimum number of employees;

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

however, applicants are advised that a business with fewer than 25 employees may not be a feasible candidate for an ESOP.

e. to *g.* No change.

h. The applicant has not completed a feasibility study for purposes of exploring an ESOP formation in the three years prior to application for the program. An applicant who has engaged a service provider as of the time of application shall provide a copy of the engagement letter to the authority.

i. ~~The applicant has not engaged a feasibility service provider prior to July 1, 2013. An applicant who has engaged a service provider as of the time of application shall provide a copy of the engagement letter to the authority.~~

56.4(2) Application scoring. A business meeting the requirements of subrule 56.4(1) may apply to the authority for financial assistance under the program. The authority will review applications for completeness ~~and. The authority may engage an ESOP advisory panel for assistance in evaluating the applications as needed.~~ As part of the evaluation process, an applicant ~~will~~ may be required to interview with authority staff and with members of the ESOP advisory panel about the applicant's business, future plans, and interest in forming an ESOP. Authority staff ~~and members of the ESOP advisory panel~~ will evaluate the applications and give them an average numerical score between 0 and 100. The numerical score will reflect the extent to which an applicant is a feasible candidate for an ESOP. In determining the numerical score, the authority ~~and the members of the advisory panel~~ will take into account the extent to which each applicant meets the requirements of subrule 56.4(1). The authority will keep records of the scoring process and make those records available to applicants.

56.4(3) Funding decisions. Each application, including its numerical score, will be referred to the director with a recommended funding decision. The director will make the final funding decision on each application, taking into consideration the score and the funding recommendation of ~~the ESOP advisory panel~~ authority staff. The director may not approve funding for an application that receives an average score of less than 50 points.

ARC 6737C

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to empower rural Iowa initiative and providing an opportunity for public comment

The Economic Development Authority hereby proposes to amend Chapter 220, "Rural Housing Needs Assessment Grant Program," Chapter 221, "Rural Innovation Grant Program," and Chapter 222, "Empower Rural Iowa Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in 2019 Iowa Acts, Senate File 608; 2021 Iowa Acts, House File 871; and 2022 Iowa Acts, House File 2564.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2019 Iowa Acts, Senate File 608; 2021 Iowa Acts, House File 871; and 2022 Iowa Acts, House File 2564.

Purpose and Summary

The Empower Rural Iowa Initiative was created by Executive Order Number 3 dated July 18, 2018, which directs the Authority to provide staffing and administrative assistance for the initiative and its associated task forces. The proposed amendments to three chapters related to the initiative would accomplish the following:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- Renumber Chapters 220, 221, and 222 as Chapters 28, 29, and 30 in Part III, “Community Development Division,” of the Authority’s rules.
- Remove redundant portions of renumbered Chapters 28 and 29.
- Update scoring criteria in renumbered Chapters 28 and 29 to reflect current scoring practices.
- Remove the minimum award amounts from renumbered Chapters 28 and 29 and clarify in each chapter that maximum and minimum award amounts will be established by the Authority.
- Update references in renumbered Chapter 30 to appropriations for the Empower Rural Iowa Program in 2021 Iowa Acts, House File 871, and 2022 Iowa Acts, House File 2564.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

ITEM 1. Renumber **261—Chapter 220** as **261—Chapter 28**.

ITEM 2. Amend renumbered rule 261—28.1(88GA,SF608) as follows:

261—28.1(88GA,SF608) Purpose. Pursuant to 2019 Iowa Acts, Senate File 608, the authority is directed to establish a The purpose of the rural housing needs assessment grant program to support the interpretation and implementation of hard data and housing-related information specific to the communities applying for financial assistance under this program. This grant program is intended to support the use of publicly available information and support community efforts to interpret hard data with supplemental information and to help communities implement changes to development codes, local ordinances, and housing incentives according to the community's needs.

ITEM 3. Amend renumbered rule **261—28.2(88GA,SF608)**, definition of “Program,” as follows:

“Program” means the procedures, agreement, terms, and assistance rural housing needs assessment grant program established and provided pursuant to in this chapter.

ITEM 4. Amend renumbered rule 261—28.3(88GA,SF608) as follows:

261—28.3(88GA,SF608) Program description.

28.3(1) Amount, form, and timing of assistance. ~~This program provides financial assistance to applicants to support the interpretation and implementation of hard data and housing-related information specific to the communities applying for a grant under this program.~~ The amount of assistance awarded will be determined by the authority and will be based on the total amount of funds available to the authority for the program and the costs specified in the application. Each award shall not be less than \$1,000. The authority will establish a maximum grant award per application and a minimum grant award per application for each fiscal year in which funding is available. The authority will provide financial assistance in the form of a grant. Funds will be disbursed on a reimbursement basis for expenses incurred by the applicant after approval of an award by the director.

28.3(2) Application.

a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority ~~or by visiting the authority's website:~~ Iowa Economic Development Authority, Community Development Division, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315, (515)348-6200, iowaeda.com.

b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted during the established application period, or periods, as identified by the authority on its website.

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

28.3(3) Approval of assistance. ~~Authority staff will review applications for financial assistance under the program, and a grant committee will score and recommend applications to the director in accordance with subrule 220.4(2). A project that does not receive funding may reapply.~~

28.3(4) Agreement required. The authority shall enter into an agreement with each applicant for the receipt of a grant under this chapter. The agreement must state the terms on which financial assistance is to be provided. The authority may negotiate the terms of the agreement. The applicant shall execute the agreement before funds are disbursed under the program.

28.3(5) Form of financial assistance. ~~The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.~~

28.3(6) 28.3(3) Use of funds.

a. An applicant shall use funds only for reimbursement of the costs directly related to the project. The authority may require documentation or other information establishing the actual costs incurred for

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

a project. Failure to use the funds for reimbursement of the costs directly related to a project shall be grounds for default under the agreement required pursuant to this chapter.

b. For purposes of this subrule, “costs directly related” does not include any expenses specified as ineligible in the agreement required pursuant to this chapter.

ITEM 5. Amend renumbered rule 261—28.4(88GA,SF608) as follows:

261—28.4(88GA,SF608) Program eligibility, application scoring, and funding decisions.

28.4(1) Program eligibility. An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

a. The applicant must be an Iowa community as defined in rule 261—220.2(88GA,SF608) 261—28.2(88GA,SF608).

b. to h. No change.

28.4(2) Application scoring criteria. All completed applications will be reviewed and scored. Each application will be scored using criteria set forth by the authority, which may include the following:

a. Applicant readiness and partnerships. The application should demonstrate that the applicant is actively addressing housing needs and has identified diverse partners.

b. Project goals and timeline. The application should demonstrate clearly defined, measurable goals and a timeline for execution of the project.

c. Project budget and financing. The application should include a complete budget that provides clear justification for all costs. The application should also demonstrate secured financing and that the cash match requirement has been met.

d. Additional points. Extra consideration is provided to applications that have projects supporting housing initiatives endorsed by the Iowa great places citizens advisory board, as well as those located in a community with a population of 10,000 or less.

28.4(3) Funding decisions. Funding decisions will be made using the following process:

a. *Staff review.* Each application will be reviewed by staff for eligibility and completeness. Complete applications meeting all eligibility requirements will be sent to a grant committee.

b. *Grant committee review and recommendation.* Following staff review, a grant committee will review and score applications using the criteria ~~set forth by the authority pursuant to~~ in subrule 220.4(2) 28.4(2) and will make funding recommendations. The committee may utilize an outside technical panel if the committee determines additional expertise is necessary to review and score the application. The application and score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.

c. *Director's decision.* The director will make the final funding decision on each application, taking into consideration the amount of available funding and the grant committee's recommendation. The director may approve, deny, or defer funding for any application.

d. *Notification.* Each applicant will be notified in writing of the funding decision within 15 days of the director's decision.

ITEM 6. Renumber **261—Chapter 221** as **261—Chapter 29**.

ITEM 7. Amend renumbered rule 261—29.1(88GA,SF608) as follows:

261—29.1(88GA,SF608) Purpose. ~~Pursuant to 2019 Iowa Acts, Senate File 608, the authority is directed to establish a~~ The purpose of the rural innovation grant program is to support creative, nontraditional ideas that focus on current issues and challenges faced by rural communities associated with the themes of community investment, growth, and connection.

ITEM 8. Amend renumbered rule **261—29.2(88GA,SF608)**, definition of “Program,” as follows:

“Program” means the ~~procedures, agreement, terms, and assistance~~ rural innovation grant program established and provided pursuant to in this chapter.

ITEM 9. Amend renumbered rule 261—29.3(88GA,SF608) as follows:

261—29.3(88GA,SF608) Program description.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

~~29.3(1) Amount, form, and timing of assistance. The program provides financial assistance to applicants to support creative, nontraditional ideas that focus on current challenges facing rural communities. The amount of assistance awarded will be determined by the authority based on the total amount of funds available to the authority for the program and based on the project details. Each award shall not be less than \$1,000. The authority will establish a maximum grant award per application and a minimum grant award per application for each fiscal year in which funding is available. The authority will provide financial assistance in the form of a grant. Funds will be disbursed on a reimbursement basis for expenses incurred by the applicant after approval of an award by the director.~~

~~29.3(2) Application.~~

~~a. Forms. All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by the authority. Information about the program, the application, and application instructions may be obtained by contacting the authority or by visiting the authority's website: Iowa Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309, (515)328-3000, iowaeconomicdevelopment.com.~~

~~b. Application period. Each fiscal year during which funding is available, applications for financial assistance will only be accepted during the established application period, or periods, as identified by the authority on its website.~~

~~c. Frequency of application. An eligible applicant may only be named as the primary entity on one application per application period. However, an applicant who has applied as the primary entity for an application may also be named as a partner on additional applications submitted.~~

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

~~29.3(3) Approval of assistance. Authority staff will review applications for financial assistance under the program, and a grant committee will score and recommend applications to the director in accordance with subrule 221.4(2). A project that does not receive funding may reapply.~~

~~29.3(4) Agreement required. The authority shall enter into an agreement with each applicant for the receipt of a grant under this chapter. The agreement must state the terms on which the financial assistance is to be provided. The authority may negotiate the terms of the agreement. The applicant shall execute the agreement before funds are disbursed under the program.~~

~~29.3(5) Form of financial assistance. The authority will provide financial assistance in the form of a grant to the applicant. The amount of the grant and any other terms shall be included in the agreement required pursuant to this chapter.~~

~~29.3(6) 29.3(3) Use of funds.~~

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

~~b. For purposes of this subrule, "costs directly related" does not include ineligible expenses such as international travel, domestic travel outside the state of Iowa, insurance, training or professional development courses, and any other expenses specified as ineligible in the agreement required pursuant to this chapter.~~

ITEM 10. Amend renumbered rule 261—29.4(88GA,SF608) as follows:

261—29.4(88GA,SF608) Program eligibility, application scoring, and funding decisions.

29.4(1) Program eligibility. An applicant must meet the following eligibility criteria to qualify for financial assistance under this program:

a. The applicant must meet the definition of "applicant" in rule 261—221.2(88GA,SF608) rule 261—29.2(88GA,SF608).

b. to f. No change.

29.4(2) Application scoring criteria. All completed applications will be reviewed and scored. Each application will be scored using criteria set forth by the authority, which may include the following:

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

- a. Alignment with program purpose. The application should demonstrate that the project aligns with the program purpose by developing a nontraditional, concrete solution to increase rural community vibrancy.
- b. ~~Solution-oriented~~ Innovation. The application should demonstrate that the project will address rural challenges through exceptional and creative solutions.
- c. Replicability. The application should demonstrate a clear opportunity for successful replication in rural communities across the state.
- d. Roles defined. The application should identify and describe the roles of all partners involved in the project.
- e. Project goals and timeline. The application should demonstrate clearly defined, measurable goals and a timeline for execution of the project.
- f. Project budget and financing. The application should include a complete budget that provides clear justification for all costs. The application should also demonstrate secured financing and that the cash match requirement has been met.
- g. Additional points. Extra consideration is provided to projects that have been endorsed by the Iowa great places citizens advisory board (additional five points added to score total), as well as those located in a community with a population of 5,000 or less.

29.4(3) Funding decisions. Funding decisions will be made using the following process:

- a. Staff review. Each application will be reviewed by staff for eligibility and completeness. Complete applications meeting all eligibility requirements will be sent to a grant committee.
- b. Grant committee review and recommendation. Following staff review, a grant committee will review and score applications using the criteria ~~set forth by the authority pursuant to~~ in subrule 221.4(2) 29.4(2) and will make funding recommendations. The committee may utilize an outside technical panel if the committee determines additional expertise is necessary to review and score the application. The application and score will be referred to the director with a recommendation as to whether to fund the project and, if funding is recommended, a recommendation as to the amount of the grant.
- c. Director's decision. The director will make the final funding decision on each application, taking into consideration the amount of available funding and the grant committee's recommendation. The director may approve, deny, or defer funding for any application.
- d. Notification. Each applicant will be notified in writing of the funding decision within 15 days of the director's decision.

ITEM 11. Renumber **261—Chapter 222** as **261—Chapter 30**.

ITEM 12. Amend renumbered rule 261—30.1(89GA, HF871) as follows:

261—30.1(89GA, HF871, HF2564) Purpose. The empower rural Iowa initiative was created by Executive Order Number 3 dated July 18, 2018, which directs the authority to provide staffing and administrative assistance for the initiative and its associated task forces. ~~Pursuant to 2021 Iowa Acts, House File 871, the authority is directed to adopt rules to establish criteria for the distribution of funds appropriated in section 3, subsection 11, of the legislation to the empower rural Iowa program.~~

ITEM 13. Amend renumbered rule 261—30.2(89GA, HF871), parenthetical implementation statute, as follows:

261—30.2(89GA, HF871, HF2564) Definitions.

ITEM 14. Amend renumbered rule 261—30.3(89GA, HF871) as follows:

261—30.3(89GA, HF871, HF2564) Eligible uses of funds.

30.3(1) No change.

30.3(2) Eligible uses of funds include the following:

- a. The rural housing needs assessment grant program administered pursuant to 261—Chapter 220 261—Chapter 28;

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

b. The rural innovation grant program administered pursuant to ~~261—Chapter 224~~ 261—Chapter 29;

c. to g. No change.

ITEM 15. Amend renumbered **261—Chapter 30**, implementation sentence, as follows:

These rules are intended to implement 2021 Iowa Acts, House File 871, and 2022 Iowa Acts, House File 2564.

ARC 6756C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

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

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 260C.49.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2128.

Purpose and Summary

This proposed rule making updates standards for community college accreditation, as required by 2022 Iowa Acts, Senate File 2128. These amendments modernize standards for faculty qualifications and faculty quality and development.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 10, 2023. Comments should be directed to:

EDUCATION DEPARTMENT[281](cont'd)

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subparagraph **24.5(1)“a”(3)** as follows:

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

1. Possess a master’s degree or higher from ~~a regionally~~ an accredited graduate school in each field of instruction in which the instructor is teaching classes.

2. Possess a master’s degree or higher from ~~a regionally~~ an accredited graduate school and have completed a minimum of 18 graduate semester hours in a combination of the qualifying graduate fields identified as related to the field of instruction in which the instructor is teaching classes. These 18 graduate semester hours must include at least 6 credits in the specific course content being taught, with at least 12 credits required for courses that serve as prerequisites for junior-level courses at transfer institutions.

~~For the transition period ending September 1, 2017, an instructor deemed qualified to teach with a master’s degree and 12 graduate semester hours within a field of instruction and who demonstrates adequate progress toward meeting the goals of the instructor’s individual quality faculty plan shall remain qualified to teach until the date specified in the quality faculty plan or September 1, 2017, whichever comes first.~~

3. For courses identified as applied liberal arts and sciences, possess at least a bachelor’s degree and a combination of formal training and professional tested experience equivalent to 6,000 hours. The instructor shall hold the appropriate registration, certification, or licensure in occupational areas in which such credential is necessary for practice.

For purposes of this subparagraph, “accredited” means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

ITEM 2. Amend subrule 24.5(7), introductory paragraph, as follows:

24.5(7) Quality faculty plan. The community college shall establish a quality faculty committee consisting of instructors and administrators to develop and maintain a plan for hiring and developing quality faculty. The committee shall have equal representatives of arts and sciences and career and technical faculty with no more than a simple majority of members of the same gender. Faculty shall be appointed by the certified employee organization representing faculty, if any, and administrators shall be appointed by the college’s administration. If no faculty-certified employee organization

EDUCATION DEPARTMENT[281](cont'd)

representing faculty exists, the faculty shall be appointed by administration pursuant to Iowa Code section 260C.48(4). The committee shall submit the plan to the board of directors for consideration, approval and submittal to the department of education. Standards relating to quality assurance of faculty and ongoing quality professional development shall be the accreditation standards of similar accredited institutions of higher education that are consistent with the standards established pursuant to this rule and the faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. For purposes of this subrule, “accredited” means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

ITEM 3. Amend subparagraph **24.5(7)“b”(9)** as follows:

(9) Compliance with the faculty accreditation standards of ~~the Higher Learning Commission~~ similar accredited institutions of higher education that are consistent with the standards established pursuant to Iowa Code section 260C.48 and with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies. It is recommended that the plan provide for the uniform reports with substantiating data currently required for Higher Learning Commission accreditation. For purposes of this subparagraph, “accredited” means that an institution of higher education meets the standards established by an accrediting agency recognized under 34 CFR Part 602 and by Title IV of the federal Higher Education Opportunity Act, Pub. L. No. 110-315.

ARC 6758C

EDUCATION DEPARTMENT[281]

Notice of Intended Action

**Proposing rule making related to work-based learning
and providing an opportunity for public comment**

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

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 256.7 and 279.61.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

2022 Iowa Acts, Senate File 2383, division II, expands opportunities for work-based learning in Iowa schools, including requiring work-based learning to be considered in a student’s academic planning and requiring the Department of Education to gather data on each district’s provision of work-based learning. These proposed amendments implement the portion of division II within the Department’s authority.

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.

EDUCATION DEPARTMENT[281](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 State Board for a waiver of the discretionary provisions, if any, pursuant to 281—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 10, 2023. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **49.3(1)“c”** as follows:

c. Identify the coursework and work-based learning needed in grades 9 through 12 to support the student’s postsecondary education and career options and goals.

ITEM 2. Adopt the following **new** paragraph **49.3(1)“e”**:

e. Prior to graduation, advise the student how to successfully complete the Free Application for Federal Student Aid.

ITEM 3. Amend subrule 49.7(2) as follows:

49.7(2) Reporting. ~~For the school year beginning July 1, 2016, and each succeeding school year,~~ The board of directors of each school district shall submit to the local community, and to the department as a component of the school district’s comprehensive school improvement plan required by 281—Chapter 12, an annual report on student utilization of the district’s career information and decision-making system. The board shall report to the department at least annually, and in a manner and frequency required by the department, regarding student participation in work-based learning programs established by the board, including registered apprenticeships, quality pre-apprenticeships, internships, on-the-job training, and projects through the Iowa clearinghouse for work-based learning.

ARC 6757C**EDUCATION DEPARTMENT[281]****Notice of Intended Action****Proposing rule making related to paraeducator preparation programs and providing an opportunity for public comment**

The State Board of Education hereby proposes to amend Chapter 80, “Standards for Paraeducator Preparation Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 256.7(22).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.7(22).

Purpose and Summary

The Department of Education’s educator preparation team approved nine new programs in the fall of 2022. Due to state initiatives to expand alternative programs to teacher licensure, it is expected that the demand for and interest in offering paraeducator preparation programs will continue to grow. Many of these new programs are offered by higher education institutions, which require additional rigorous standards. Due to the added number of programs, it will be challenging to administer high-quality reviews that provide meaningful feedback for program change and growth within the required five-year cycle. Therefore, this proposed rule making changes the review timeline to every seven years. This change will additionally allow the educator preparation team to align the paraeducator preparation review with the educator preparation review. This will make the process more efficient for the programs and the Department consultants due to close alignment of other preparation standards with paraeducator standards.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 10, 2023. Comments should be directed to:

EDUCATION DEPARTMENT[281](cont'd)

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

Public Hearing

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 281—80.5(272) as follows:

281—80.5(272) Application; approval of programs. Approval of paraeducator preparation programs by the state board shall be based on the recommendation of the director after study of the factual and evaluative evidence of record about each program in terms of the standards contained in this chapter. Approval, if granted, shall be for a term of ~~five~~ seven years; however, approval for a shorter term may be granted by the state board if it determines conditions so warrant. If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at the next regularly scheduled meeting of the state board. The institution may also reapply at its discretion to provide evidence of the actions taken toward suggested improvement. Any application submitted under this rule shall be submitted by the authorized official.

ITEM 2. Amend rule 281—80.7(272) as follows:

281—80.7(272) Reevaluation of paraeducator preparation programs. Each paraeducator preparation program shall be reviewed and reevaluated at least once every ~~five~~ seven years, at a shorter interval specified pursuant to rule 281—80.5(272), or at any time deemed necessary by the director. Recommendations as to whether to grant continued approval shall be governed by rule 281—80.5(272).

ARC 6755C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

The Environmental Protection Commission (Commission) hereby proposes to amend Chapter 100, “Scope of Title—Definitions—Forms—Rules of Practice,” and Chapter 102, “Permits”; to rescind Chapter 104, “Sanitary Disposal Projects with Processing Facilities”; and to amend Chapter 114,

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

“Sanitary Landfills: Construction and Demolition Wastes,” Chapter 115, “Sanitary Landfills: Industrial Monofills,” and Chapter 120, “Landfarming of Petroleum Contaminated Soil,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455B.304, 455B.383 and 455D.7(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.301A, 455B.304, 455B.307 and 455B.383 and chapter 455D.

Purpose and Summary

Chapters 100, 102, 104, 114, 115 and 120 regulate solid waste. This proposed rule making will reduce and consolidate these regulations. Specifically, the proposed rule making rescinds redundant or outdated rules, consistent with Iowa Code section 17A.7(2)'s five-year rule review directive. It also consolidates rules scattered across three chapters into one chapter. Chapter 104 in its entirety is proposed to be rescinded, and the requirements for solid waste incinerator operator certification are proposed to be moved to Chapter 102. This strategic streamlining will make all of the regulations more intuitive and easier to read and understand.

No new policy proposals are included in this proposed rule making.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

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 January 3, 2023. Comments should be directed to:

Theresa Stiner
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: theresa.stiner@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Theresa Stiner via email. A

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conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Ms. Stiner prior to the hearing to facilitate an orderly hearing

January 3, 2023
1:30 p.m.

Via video/conference call

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

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **567—Chapter 100**, title, as follows:

SCOPE OF TITLE—DEFINITIONS—~~FORMS~~—RULES OF PRACTICE

ITEM 2. Amend rule 567—100.1(455B,455D) as follows:

567—100.1(455B,455D) Scope of title. The department has jurisdiction over the management, dumping, depositing, and disposal of solid waste by establishing standards for sanitary disposal projects and by regulating solid waste through a system of general rules and specific permits. The construction and operation of any sanitary disposal project requires a specific permit from the department.

This chapter provides general definitions applicable to ~~this title and rules of practice, including forms, applicable to the public in the department's administration of the subject matter of this title~~ Title VIII (solid waste management and disposal) of the commission's rules and general conditions of solid waste disposal.

~~Chapter 101 contains the general requirements relating to solid waste management and disposal. Chapter 102 pertains to the permits which must be obtained in order to construct and operate a sanitary disposal project. Chapter 103 details the requirements for all sanitary landfills accepting only coal combustion residue. Chapter 104 details the requirements for sanitary disposal projects with processing facilities. Chapter 105 sets forth the requirements for the planning and operation of all composting facilities. Chapter 106 pertains to design and operating requirements for recycling operations. Chapter 107 sets forth the rules pertaining to beverage container deposits and approval of redemption centers. Chapter 108 pertains to the reuse of solid waste. Chapter 109 contains the procedure for the assessment and collection of fees for the disposal of solid waste at sanitary landfills. Chapter 110 contains design, construction, and operation standards for solid waste management facilities. Chapter 112 details the requirements for all sanitary landfills accepting only biosolids. Chapter 113 details the requirements for all sanitary landfills accepting municipal solid waste. Chapter 114 details the requirements for all sanitary landfills accepting only construction and demolition wastes. Chapter 115 details the requirements for all sanitary landfills that are industrial waste monofills. Chapter 117 details the requirements for outdoor storage and processing of waste tires. Chapter 118 governs removal and disposal of PCBs from white goods. Chapter 119 provides requirements for collection and disposal of waste oil. Title VIII, Chapters 120 and 121, govern land application of sludge and other solid waste.~~

This rule is intended to implement Iowa Code section 455B.304 and chapter 455D.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 3. Amend rule **567—100.2(455B,455D)**, definition of “Solid waste,” as follows:

“*Solid waste*” has the same meaning as found in Iowa Code section 455B.301. Pursuant to Iowa Code section 455B.301(23) “*b*,” 455B.301(29) “*b*,” the commission has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b) as amended through November 16, 2016, except to the extent that any such exempted substances are liquid wastes or wastewater. This definition applies to all chapters within Title VIII. To the extent that there is a conflict, this definition controls.

ITEM 4. Rescind the definitions of “Leachate,” “Private agency,” “Rubble” and “Sanitary landfill” in rule **567—100.2(455B,455D)**.

ITEM 5. Adopt the following **new** definitions of “Incorporation,” “Landfarm,” “Landfarm applicator,” “Landfarming,” “Landfarm plot,” “Landfarm season,” “Nonstandard PCS,” “Petroleum contaminated soil,” “Source of PCS,” “Standard PCS,” “Tar ball” and “Type of PCS” in rule **567—100.2(455B,455D)**:

“*Incorporation*” means to mix into the soil by tilling, disking, or other suitable means, thereby creating a loose and divided soil texture.

“*Landfarm*” means the area of land used to landfarm a single application of a particular source and type of PCS. Landfarms are created when a permitted landfarm applicator, or party under the applicator’s supervision, applies PCS to the land. No other PCS may be applied within 15 feet of the area of land used as a landfarm until the landfarm is closed pursuant to rule 567—120.12(455B).

“*Landfarm applicator*” means an entity permitted by the department to apply PCS to the land to create one or more landfarms.

“*Landfarming*” means a surface-level soil remediation technology for petroleum contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatilize during the landfarming process.

“*Landfarm plot*” means the specific operating area of a landfarm upon which a particular source and type of PCS is applied.

“*Landfarm season*” means the period of the year when the ground is not frozen or snow-covered and runoff from these situations is not expected to transport PCS beyond the landfarm area.

“*Nonstandard PCS*” means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“*Petroleum contaminated soil*” or “*PCS*” means soil contaminated with petroleum products including, but not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“*Source of PCS*” means the contaminated area from which the PCS originated. Examples of a source include, but are not limited to, a specific gas station or spill location.

“*Standard PCS*” means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

“*Tar ball*” means a ball or conglomeration of tarlike petroleum constituents. Tar balls may form when PCS that contains a high concentration of long-chain or high molecular weight hydrocarbons is landfarmed.

“*Type of PCS*” means the specific petroleum product or combination thereof that contaminated the soil. Examples of type include, but are not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.

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ITEM 6. Rescind and reserve rule **567—100.3(17A,455B)**.

ITEM 7. Rescind and reserve rule **567—100.5(455B)**.

ITEM 8. Amend **567—Chapter 102**, title, as follows:

PERMITS AND RULES OF PRACTICE

ITEM 9. Amend paragraph **102.2(1)“a”** as follows:

a. Applications for renewal to be timely filed must be received at the department's office at least 90 days before the expiration date of the existing permit. ~~For application forms, see 567—100.3(17A,455B) on a form provided by the department.~~

ITEM 10. Amend subrule 102.3(1) as follows:

102.3(1) *Application requirements for permits and renewals.* ~~See 567—100.3(17A,455B)~~ More information can be found in subrule 102.2(1).

ITEM 11. Adopt the following new rule 567—102.15(455B):

567—102.15(455B) Solid waste incinerator operator certification. Solid waste incinerator operators shall be trained, tested, and certified by a department-approved certification program.

102.15(1) A solid waste incinerator operator shall be on duty during all hours of operation of a solid waste incinerator, consistent with the respective certification.

102.15(2) To become a certified operator, an individual shall complete a basic operator training course that has been approved by the department or alternative, equivalent training approved by the department and shall pass a departmental examination as specified by this rule. An operator certified by another state may have reciprocity subject to approval by the department.

102.15(3) A solid waste incinerator operator certification is valid from the date of issuance until June 30 of the following even-numbered year.

102.15(4) Basic operator training course. The required basic operator training course for a certified solid waste incinerator operator shall have at least 12 contact hours and shall address the following areas, at a minimum:

- a.* Description of types of wastes;
- b.* Incinerator design;
- c.* Interpreting and using engineering plans;
- d.* Incinerator operations;
- e.* Environmental monitoring;
- f.* Applicable laws and regulations;
- g.* Permitting processes;
- h.* Incinerator maintenance; and
- i.* Ash and residue disposal.

102.15(5) Alternative basic operator training must be approved by the department. It shall be the applicant's responsibility to submit any documentation the department may require to evaluate the equivalency of alternative training.

102.15(6) Fees.

a. The examination fee for each examination is \$20.

b. The initial certification fee is \$8 for each one-half year of a two-year period from the date of issuance to June 30 of the next even-numbered year.

c. The certification renewal fee is \$24.

d. The penalty fee is \$12.

102.15(7) Examinations.

a. The operator certification examinations will be based on the basic operator training course curriculum.

b. All persons wishing to take the examination required to become a certified operator of a solid waste incinerator shall complete the Operator Certification Examination Application, Form 542-1354. A listing of dates and locations of examinations is available from the department upon request. The

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319. Application for examination must be received by the department at least 30 days prior to the date of examination.

c. A properly completed application for examination shall be valid for one year from the date the application is approved by the department.

d. Upon failure of the first examination, the applicant may be reexamined at the next scheduled examination. Upon failure of the second examination, the applicant shall be required to wait a period of 180 days before taking a subsequent examination.

e. Upon each reexamination when a valid application is on file, the applicant shall submit to the department the examination fee at least ten days prior to the date of examination.

f. Failure to successfully complete the examination within one year from the date of approval of the application shall invalidate the application.

g. Completed examinations will be retained by the department for a period of one year, after which they will be destroyed.

h. Oral examinations may be given at the discretion of the department.

102.15(8) Certification.

a. All operators who passed the operator certification examination by July 1, 1991, are exempt from taking the required operator training course. Beginning July 1, 1991, all operators will be required to take the basic operator training course and pass the examination in order to become certified.

b. Application for certification must be received by the department within 30 days of the date the applicant receives notification of successful completion of the examination. All applications for certification shall be made on a form provided by the department and shall be accompanied by the certification fee.

c. Applications for certification by examination that are received more than 30 days but less than 60 days after notification of successful completion of the examination shall be accompanied by the certification fee and the penalty fee. Applicants who do not apply for certification within 60 days of notice of successful completion of the examination will not be certified on the basis of that examination.

d. For applicants who have been certified under other state mandatory certification programs, the equivalency of which has been previously reviewed and accepted by the department, certification without examination will be recommended.

e. For applicants who have been certified under voluntary certification programs in other states, certification will be considered. The applicant must have successfully completed a basic operator training course and an examination generally equivalent to the Iowa examination. The department may require the applicant to successfully complete the Iowa examination.

f. Applicants who seek Iowa certification pursuant to paragraph 102.15(8) "d" or 102.15(8) "e" shall submit an application for examination accompanied by a letter requesting certification pursuant to this subrule. Application for certification pursuant to this subrule shall be received by the department in accordance with paragraphs 102.15(8) "b" and "c."

102.15(9) All certificates shall expire every two years, on even-numbered years, and must be renewed every two years to maintain certification. The renewal application and fee are due prior to expiration of certification.

a. Late application for renewal of a certificate may be made provided that such late application shall be received by the department or postmarked within 30 days of the expiration of the certificate. Such late application shall be on forms provided by the department and accompanied by the penalty fee and the certification renewal fee.

b. If a certificate holder fails to apply for renewal within 30 days following expiration of the certificate, the right to renew the certificate automatically terminates. Certification may be allowed at any time following such termination, provided that the applicant successfully completes an examination. The applicant must then apply for certification in accordance with subrule 102.15(8).

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c. An operator shall not continue to operate a solid waste incinerator after expiration of a certificate without renewal thereof.

d. Continuing education credits must be earned during the two-year certification period. All certified operators must earn ten contact hours per certificate during each two-year period. The two-year period will begin upon certification.

e. Only those operators fulfilling the continuing education requirements before the end of each two-year period will be allowed to renew their certificates. The certificates of operators not fulfilling the continuing education requirements shall be void upon expiration, unless an extension is granted.

f. All activities for which continuing education credit will be granted must be related to the subject matter of the particular certificate to which the credit is being applied.

g. The department may, in individual cases involving hardship or extenuating circumstances, grant an extension of time of up to three months within which the applicant may fulfill the minimum continuing education requirements. Hardship or extenuating circumstances include documented health-related confinement or other circumstances beyond the control of the certified operator that prevent attendance at the required activities. All requests for extensions must be made 60 days prior to expiration of certification.

h. The certified operator is responsible for notifying the department of the continuing education credits earned during the period. The continuing education credits earned during the period shall be shown on the application for renewal.

i. A certified operator shall be deemed to have complied with the continuing education requirements of this rule during periods that the operator serves honorably on active duty in the military service; or during periods that the operator is a resident of another state or district having a continuing education requirement for operators and meets all the requirements of that state or district for practice there; or during periods that the person is a government employee working as an operator and is assigned to duty outside of the United States; or during other periods of active practice and absence from the state approved by the department.

102.15(10) Discipline of certified operators.

a. Disciplinary action may be taken on any of the following grounds:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to incinerator operation.

(2) Failure to submit required records of operation or other reports required under applicable permits or rules of the department, including failure to submit complete records or reports.

(3) Knowingly making any false statement, representation, or certification on any application, record, report, or document required to be maintained or submitted under any applicable permit or rule of the department.

b. Disciplinary sanctions allowable are as follows:

(1) Revocation of a certificate.

(2) Probation under specified conditions relevant to the specific grounds for disciplinary action. Additional education or training or reexamination may be required as a condition of probation.

c. The procedure for discipline is as follows:

(1) The department shall initiate disciplinary action. The commission may direct that the department investigate any alleged factual situation that may be grounds for disciplinary action under paragraph 102.15(10)“a” and report the results of the investigation to the commission.

(2) A disciplinary action may be prosecuted by the department.

(3) Written notice shall be given to an operator against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. The operator shall be given 20 days to present any relevant facts and indicate the operator's position in the matter and to indicate whether informal resolution of the matter may be reached.

(4) An operator who receives notice shall communicate verbally, in writing, or in person with the department, and efforts shall be made to clarify the respective positions of the operator and department.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

(5) The applicant's failure to communicate facts and positions relevant to the matter by the required date may be considered when appropriate disciplinary action is determined.

(6) If agreement as to appropriate disciplinary sanction, if any, can be reached with the operator and the commission concurs, a written stipulation and settlement between the department and the operator shall be entered into. The stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the operator, and the reasons for the particular sanctions imposed.

(7) If an agreement as to appropriate disciplinary action, if any, cannot be reached, the department may initiate formal hearing procedures. Notice and formal hearing shall be in accordance with 561—Chapter 7 related to contested and certain other cases pertaining to licensee discipline.

102.15(11) Upon revocation of a certificate, application for certification may be allowed after two years from the date of revocation. Any such applicant must successfully complete an examination and be certified in the same manner as a new applicant.

102.15(12) A temporary operator of a solid waste incinerator may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts that will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in subrule 102.15(10).

This rule is intended to implement Iowa Code section 455B.304(12).

ITEM 12. Adopt the following new rule 567—102.16(455B):

567—102.16(455B) Disruption and excavation of sanitary landfills or closed dumps. No person shall excavate, disrupt, or remove any deposited material from any active or discontinued sanitary landfill or closed dump without first having notified the department in writing.

102.16(1) Notification shall include an operational plan stating the area involved, lines and grades defining limits of excavation, estimated number of cubic yards of material to be excavated, sanitary disposal project where material is to be disposed, and estimated time required for excavation procedures.

102.16(2) An excavation shall be confined to an area consistent with the number of pieces of digging equipment and trucks used for haulage.

102.16(3) The disposal of all solid waste resulting from excavation shall be in conformity with Iowa Code chapter 455B and applicable solid or hazardous waste regulations.

This rule is intended to implement Iowa Code section 455B.304.

ITEM 13. Adopt the following new implementation sentence in **567—Chapter 102**:

These rules are intended to implement Iowa Code sections 455B.304 and 455B.305.

ITEM 14. Rescind and reserve **567—Chapter 104**.

ITEM 15. Amend paragraph **114.3(1)“a”** as follows:

a. Applications for renewal shall be received at the department office at least 90 days before the expiration date of the existing permit. ~~For application forms, see 567—100.3(17A,455B) on a form provided by the department.~~

ITEM 16. Amend subrule 114.4(1) as follows:

114.4(1) *Application requirements for permits and renewals.* ~~See 567—100.3(17A,455B)~~ More information can be found in 567—subrule 102.2(1).

ITEM 17. Amend rule 567—114.29(455B), introductory paragraph, as follows:

567—114.29(455B) Operator certification. Sanitary landfill operators ~~and solid waste incinerator operators~~ shall be trained, tested, and certified by a department-approved certification program.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 18. Amend subrule 114.29(1) as follows:

114.29(1) A sanitary landfill operator ~~or a solid waste incinerator operator~~ shall be on duty during all hours of operation of a sanitary landfill ~~or solid waste incinerator~~, consistent with the respective certification.

ITEM 19. Amend subrules 114.29(3) and 114.29(4) as follows:

114.29(3) A sanitary landfill operator certification ~~or solid waste incinerator operator certification~~ is valid until June 30 of the following even-numbered year.

114.29(4) Basic operator training course.

~~a.~~ The required basic operator training course for a certified sanitary landfill operator will have at least 25 contact hours and will address the following areas, at a minimum:

- (1) a. Description of types of wastes;
- (2) b. Interpreting and using engineering plans;
- (3) c. Construction surveying techniques;
- (4) d. Waste decomposition processes;
- (5) e. Geology and hydrology;
- (6) f. Landfill design;
- (7) g. Landfill operation;
- (8) h. Environmental monitoring;
- (9) i. Applicable laws and regulations;
- (10) j. Permitting processes;
- (11) k. Leachate control and treatment.

~~b.~~ The required basic operator training course for a certified solid waste incinerator operator will have at least 12 contact hours and will address the following areas, at a minimum:

- (1) ~~Description of types of wastes;~~
- (2) ~~Incinerator design;~~
- (3) ~~Interpreting and using engineering plans;~~
- (4) ~~Incinerator operations;~~
- (5) ~~Environmental monitoring;~~
- (6) ~~Applicable laws and regulations;~~
- (7) ~~Permitting processes;~~
- (8) ~~Incinerator maintenance;~~
- (9) ~~Ash and residue disposal.~~

ITEM 20. Amend paragraph **114.29(7)“b”** as follows:

~~b.~~ All persons wishing to take the examination required to become a certified operator of a sanitary landfill ~~or a solid waste incinerator~~ shall complete the Operator Certification Examination Application, Form 542-1354. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the director and addressed to the central office in Des Moines. Application for examination must be received by the department at least 30 days prior to the date of examination.

ITEM 21. Amend paragraph **114.29(9)“c”** as follows:

~~c.~~ An operator may not continue to operate a sanitary landfill ~~or solid waste incinerator~~ after expiration of a certificate without renewal thereof.

ITEM 22. Amend subparagraph **114.29(10)“a”(1)** as follows:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to sanitary landfill ~~or incinerator~~ operation.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 23. Amend subrule 114.29(12) as follows:

114.29(12) A temporary operator of a sanitary landfill ~~or solid waste incinerator~~ may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify the temporary operator, and identify the efforts which will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 114.29(10).

ITEM 24. Amend paragraph **115.3(1)“a”** as follows:

a. Applications for renewal must be received at the department office at least 90 days before the expiration date of the existing permit. ~~For application forms, see 567—100.3(17A,455B) on a form provided by the department.~~

ITEM 25. Amend subrule 115.4(1) as follows:

115.4(1) *Application requirements for permits and renewals.* ~~See 567—100.3(17A,455B)~~ More information can be found in 567—subrule 102.2(1).

ITEM 26. Amend rule 567—115.29(455B), introductory paragraph, as follows:

567—115.29(455B) Operator certification. Sanitary landfill operators ~~and solid waste incinerator operators~~ shall be trained, tested, and certified by a department-approved certification program.

ITEM 27. Amend subrule 115.29(1) as follows:

115.29(1) A sanitary landfill operator ~~or a solid waste incinerator operator~~ shall be on duty during all hours of operation of a sanitary landfill ~~or solid waste incinerator~~, consistent with the respective certification.

ITEM 28. Amend subrules 115.29(3) and 115.29(4) as follows:

115.29(3) A sanitary landfill operator certification ~~or solid waste incinerator operator certification~~ is valid until June 30 of the following even-numbered year.

115.29(4) Basic operator training course.

~~a.~~ The required basic operator training course for a certified sanitary landfill operator will have at least 25 contact hours and will address the following areas, at a minimum:

- (1) a. Description of types of wastes;
- (2) b. Interpreting and using engineering plans;
- (3) c. Construction surveying techniques;
- (4) d. Waste decomposition processes;
- (5) e. Geology and hydrology;
- (6) f. Landfill design;
- (7) g. Landfill operation;
- (8) h. Environmental monitoring;
- (9) i. Applicable laws and regulations;
- (10) j. Permitting processes;
- (11) k. Leachate control and treatment;

~~b.~~ The required basic operator training course for a certified solid waste incinerator operator will have at least 12 contact hours and will address the following areas, at a minimum:

- (1) ~~Description of types of wastes;~~
- (2) ~~Incinerator design;~~
- (3) ~~Interpreting and using engineering plans;~~
- (4) ~~Incinerator operations;~~
- (5) ~~Environmental monitoring;~~
- (6) ~~Applicable laws and regulations;~~
- (7) ~~Permitting processes;~~

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

~~(8) Incinerator maintenance;~~

~~(9) Ash and residue disposal.~~

ITEM 29. Amend paragraph **115.29(7)“b”** as follows:

b. All persons wishing to take the examination required to become a certified operator of a sanitary landfill ~~or a solid waste incinerator~~ shall complete the Operator Certification Examination Application, Form 542-1354. A listing of dates and locations of examinations is available from the department upon request. The application form requires the applicant to indicate the basic operator training course taken. Evidence of training course completion must be submitted with the application for certification. The completed application and the application fee shall be sent to the director and addressed to the central office in Des Moines. Application for examination must be received by the department at least 30 days prior to the date of examination.

ITEM 30. Amend subparagraph **115.29(10)“a”(1)** as follows:

(1) Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. Duties of certified operators include compliance with rules and permit conditions applicable to sanitary landfill ~~or incinerator~~ operation.

ITEM 31. Amend subrule 115.29(12) as follows:

115.29(12) A temporary operator of a sanitary landfill ~~or solid waste incinerator~~ may be designated for a period of six months when an existing certified operator is no longer available to the facility. The facility must make application to the department, explain why a temporary certification is needed, identify who the temporary operator will be, and identify the efforts which will be made to obtain a certified operator. A temporary operator designation shall not be approved for greater than a six-month period except for extenuating circumstances. In any event, not more than one six-month extension to the temporary operator designation may be granted. Approval of a temporary operator designation may be rescinded for cause as set forth in 115.29(10).

ITEM 32. Adopt the following new subrule 120.2(4):

120.2(4) These rules do not apply to hazardous waste.

ITEM 33. Amend rule 567—120.3(455B) as follows:

567—120.3(455B) Definitions. ~~In addition to the~~ The definitions set out in Iowa Code section 455B.301, which shall be considered to be incorporated by reference in these rules, ~~the following definitions shall apply.~~ For the purposes of this chapter, the definitions found in 567—Chapter 100 shall apply.

~~“High water table” means the position of the water table that occurs in the spring in years of normal or above-normal precipitation.~~

~~“Incorporation” means to mix into the soil by tilling, disking, or other suitable means, thereby creating a loose and divided soil texture.~~

~~“Landfarm” means a surface-level soil remediation technology for petroleum-contaminated soils that reduces concentrations of petroleum constituents through biodegradation to a level safe for human health and the environment. This technology usually involves spreading excavated contaminated soils in a thin layer on the ground surface and stimulating aerobic microbial activity within the soils through aeration. The enhanced microbial activity results in degradation of adsorbed petroleum product constituents through microbial respiration. Some petroleum product constituents volatilize during the landfarming process. There are two types of landfarm permits issued by the department: a multiuse landfarm permit and a single-use landfarm applicator permit.~~

~~“Landfarm plot” means the specific operating area of a landfarm upon which a particular source and type of PCS is applied. A landfarm plot is a subset of the operating area.~~

~~“Landfarm season” means the time period beginning April 1 and ending October 31 of each year.~~

~~“Multiuse landfarm” means a landfarm used for more than one application of PCS. Each application of a particular source and type of PCS is landfarmed in separate landfarm plots. After the PCS is remediated, the landfarming process may be repeated. A multiuse landfarm is not located at a sanitary landfill.~~

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~~“Nonstandard PCS” means soil contaminated with a petroleum product other than gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Operating area” means the total aggregate area of the landfarm where PCS is applied. The operating area of a multiuse landfarm may include multiple landfarm plots.~~

~~“Petroleum contaminated soil” or “PCS” means soil contaminated with petroleum products including, but not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Single-use landfarm” means the area of land used to landfarm a single application of a particular source and type of PCS. Single-use landfarms are created when a single-use landfarm applicator, or the landfarm’s supervised agent, land applies PCS. No other PCS may be applied within 15 feet of the area of land used as a single-use landfarm until the single-use landfarm is closed pursuant to rule 567—120.12(455B).~~

~~“Single-use landfarm applicator” means an entity permitted by the department to land apply PCS to create one or more single-use landfarms.~~

~~“Source of PCS” means the contaminated area from which the PCS originated. Examples of a source include, but are not limited to, a specific gas station or spill location.~~

~~“Standard PCS” means soil contaminated with gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Tar ball” means a ball or conglomeration of tarlike petroleum constituents. Tar balls may form when PCS that contains a high concentration of long-chain or high molecular weight hydrocarbons is landfarmed.~~

~~“Type of PCS” means the specific petroleum product or combination thereof that contaminated the soil. Examples of type include, but are not limited to, gasoline, diesel fuel, kerosene, jet fuel, motor oil, hydraulic fluid, or some combination thereof.~~

~~“Water table” means the water surface below the ground at which the unsaturated zone ends and the saturated zone begins.~~

ITEM 34. Amend rule 567—120.4(455B) as follows:

567—120.4(455B) Landfarming applicator permits.

120.4(1) Permit required. PCS shall not be landfarmed without a landfarm applicator permit from the department.

120.4(2) Types of landfarm permits Landfarm applicator permit. The department issues two types of landfarm permits as follows:

a.—~~Multiuse landfarm permit.~~ A multiuse landfarm permit is issued for a landfarm designed to be used for more than one application of PCS. This permit requires that each application of a particular source and type of PCS be landfarmed in separate landfarm plots. If a facility has a multiuse landfarm permit, then the landfarming process may be repeated after the PCS has been remediated. A multiuse landfarm permit is not for a facility located at a sanitary landfill.

~~*b.* Single-use landfarm applicator permit.~~ A single-use Upon issuance of a landfarm applicator permit is issued to an entity that is then permitted by the department to land, the permit holder is authorized to apply PCS to the land to create one or more single-use landfarms. This permit requires that single-use landfarms be used for only one application of a particular source and type of PCS. This permit requires that no other PCS be applied within 15 feet of the area of land used as a single-use landfarm until the single-use landfarm is closed pursuant to rule 567—120.12(455B).

120.4(3) Construction and operation. ~~All landfarms~~ Landfarms shall be constructed and operated according to these rules, any plans and specifications approved by the department, and the conditions of the permit. Any approved plans and specifications shall constitute a condition of the permit.

120.4(4) Transfer of title and permit. If title to a ~~type of landfarm applicator permit~~ is transferred to a third party, then the department shall transfer the permit within 60 days if the department has determined that the following requirements have been met:

a. No change.

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b. The permitted ~~facility~~ applicator and title transferee are in compliance with Iowa Code chapter 455B, this chapter and the conditions of the permit.

120.4(5) No change.

120.4(6) *Effect of revocation.* If a landfarm applicator permit held by any public or private agency is revoked by the department, then no new landfarm applicator permit shall be issued to that agency for a period minimum of one year from the date of ~~revocation~~ the facility was brought into full compliance with the revocation order. Such revocation shall not prohibit the issuance of a permit for the same landfarm project to another ~~public or private agency~~ landfarm application permit holder.

120.4(7) *Inspection of site and operation.* ~~The~~ By obtaining an applicator permit, the permitted entity agrees that the department may inspect the facility and its operations at reasonable times to determine if the landfarm is in compliance with this chapter and the permit requirements.

120.4(8) *Duration of permits.* Landfarm applicator permits shall be issued and may be renewed for a three-year term.

120.4(9) to **120.4(11)** No change.

ITEM 35. Rescind subrule **120.5(1)**.

ITEM 36. Renumber subrules **120.5(2)** and **120.5(3)** as **120.5(1)** and **120.5(2)**.

ITEM 37. Amend renumbered subrule 120.5(1) as follows:

120.5(1) ~~Single-use landfarm~~ Landfarm applicator permits. To apply for a ~~single-use~~ landfarm applicator permit, the applicant shall submit the following information to the department:

a. The name, address, and telephone number of:

(1) Agency applying for the ~~single-use~~ landfarm applicator permit.

(2) to (4) No change.

b. to d. No change.

ITEM 38. Amend subrule 120.6(3) as follows:

120.6(3) *Tar balls.* PCS that has the potential to produce tar balls shall not be landfarmed ~~at a single-use or multiuse landfarm~~. Such PCS may be disposed of in a sanitary landfill pursuant to 567—Chapter 109.

ITEM 39. Amend subrule 120.7(1) as follows:

120.7(1) *Previous use.* ~~If the a site is to be used as a single-use landfarm, then the single-use landfarm applicator shall obtain written confirmation from the site owner of one of the following requirements:- This subrule shall not apply to land utilized as a landfarm prior to October 20, 2004.~~

a. That any other landfarm created in the past three years within 15 feet of the proposed ~~operating area~~ landfarm plot has been closed pursuant to rule 567—120.12(455B).

b. That no area within 15 feet of the proposed ~~operating area~~ landfarm plot has been used as a landfarm in the past three years.

ITEM 40. Amend subrule 120.7(2) as follows:

120.7(2) *Wells.* PCS shall not be landfarmed or stored within 500 feet of a well that is being used or could be used for human or livestock consumption. ~~Groundwater monitoring wells installed pursuant to paragraph 120.8(2)“c” are exempt from this requirement.~~ The department may also exempt from this requirement extraction wells utilized as part of a remediation system. PCS shall not be landfarmed or stored within 500 feet of an agricultural drainage well.

ITEM 41. Rescind subrule **120.7(4)**.

ITEM 42. Renumber subrules **120.7(5)** to **120.7(10)** as **120.7(4)** to **120.7(9)**.

ITEM 43. Amend renumbered subrule 120.7(5) as follows:

120.7(5) *Tile lines.* PCS shall not be landfarmed or stored within 200 feet of a tile line surface intake. ~~A multiuse landfarm shall not be located on land that has been tiled. The absence of tile lines shall be verified by written confirmation from the landowner and a visual inspection of the property.~~

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ITEM 44. Amend renumbered subrule 120.7(9) as follows:

120.7(9) Soil properties for ~~operating-area~~ landfarm plot. All soils in the ~~operating-area~~ landfarm plot of the landfarm shall comply with the following requirements:

a. *USDA textural soil classification.*

(1) ~~Multiuse landfarms.~~ Soils in the ~~operating-area~~ of ~~multiuse~~ landfarms shall be silty clay, silt clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

(2) ~~Single-use landfarms.~~ Soils in the ~~operating-area~~ landfarm plot of ~~single-use~~ landfarms shall be clay, sandy clay, sandy clay loam, sandy loam, silty clay, silt clay loam, clay loam, loam, or silt loam as classified by the USDA Textural Classification Chart for soils.

b. *Stones and debris.* Soils in the ~~operating-area~~ landfarm plot shall be free of stones and debris larger than 4 inches in diameter.

c. *Soil pH.* Soils in the ~~operating-area~~ landfarm plot shall have a pH greater than or equal to 6 and less than or equal to 9.

d. *Bedrock separation.* The ~~operating-area~~ landfarm plot shall have a minimum of 6 feet of soil over bedrock.

ITEM 45. Rescind and reserve subrule **120.8(2)**.

ITEM 46. Amend rule 567—120.9(455B), introductory paragraph, as follows:

567—120.9(455B) Landfarm operating requirements. All ~~multiuse and single-use~~ landfarms shall comply with the following operating requirements:

ITEM 47. Amend subrules 120.9(2) to 120.9(5) as follows:

120.9(2) Saturated, ~~or slurry, or flammable~~ PCS. PCS in a saturated, ~~or slurry, or flammable~~ condition shall not be ~~land~~ applied to the land or stored at a landfarm. PCS in such a condition shall be bulked with other biodegradable materials (e.g., compost, mulch) until it is no longer saturated, ~~or in a slurry, or flammable~~ before it is ~~land~~ applied to the land or stored at a landfarm.

120.9(3) PCS delivery and storage. Only PCS that is from an emergency cleanup may be delivered during the non-landfarm season. PCS delivered during non-landfarm season may be stored as follows until the conditions of subrule 120.9(4) are satisfied or within the first seven days of landfarm season, whichever is shorter. PCS that cannot immediately be ~~land~~ applied to the land at the landfarm during landfarm season may be stored at the landfarm as follows. ~~PCS delivered during non-landfarm season may be stored until the conditions of subrule 120.9(4) are satisfied or within the first seven days of landfarm season, whichever is shorter.~~

a. *Seven days or less.* PCS may be stored up to seven days in compliance with the following requirements:

- (1) Over an impervious surface (e.g., tarp, concrete pad, plastic sheeting).
- (2) Under a roof or tarp to minimize the infiltration of precipitation.
- (3) In an area with minimal potential for stormwater run-on.

b. *Extended storage time.* No PCS shall be stored longer than seven days during landfarm season without written permission from the department field office that has jurisdiction over the landfarm.

120.9(4) PCS application weather and landfarm season.

a. PCS shall only be ~~land~~ applied to the land during non-landfarm season if the PCS must be ~~land~~ applied to the land as part of an emergency cleanup supervised by the department pursuant to subrule 120.6(1), or all of the following conditions exist:

- (1) The ~~operating-area~~ landfarm plot is free of snow.
- (2) The slope of the ~~operating-area~~ landfarm plot is less than 3 percent.
- (3) The PCS is incorporated into the soil as soon as site conditions allow.

b. PCS shall not be ~~land~~ applied to the land during precipitation.

120.9(5) One application, source and type of PCS per plot. One application of a particular source and type of PCS may be applied to a landfarm plot. A landfarm may only apply a subsequent application of PCS to a previously utilized landfarm plot if such application is in compliance with the following:

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~~a. Multiuse landfarms. A subsequent application of a particular source and type of PCS may be applied to a previously utilized landfarm plot in a multiuse landfarm after the following requirements have been met:~~

~~(2) The PCS turning requirement of subrule 120.9(10) has been completed.~~

~~(1) a. The plot has been tested pursuant to subparagraphs 120.6(2)“c”(1), (2), and (3), and the results demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH-diesel, and 0.02 mg/kg for MTBE.~~

~~b. Single-use landfarms. A subsequent application of a particular source and type of PCS may not be applied within 15 feet of an area used as a single-use landfarm until the single-use landfarm is closed pursuant to subrule 120.12(2).~~

ITEM 48. Amend subrule 120.9(11) as follows:

120.9(11) No crops for consumption.

~~a. Multiuse landfarms shall not grow crops for human or livestock consumption within 15 feet of the operating area until the landfarm is closed pursuant to subrule 120.12(1).~~

~~b. Single-use landfarms~~ Landfarms shall not grow crops within 15 feet of a landfarm plot that is flagged pursuant to subrule 120.9(7). Crops for human and livestock consumption may be grown at a single-use landfarm after the landfarm plot is no longer required to be flagged pursuant to subrule 120.9(7).

ITEM 49. Rescind subrule **120.9(12)**.

ITEM 50. Renumber subrule **120.9(13)** as **120.9(12)**.

ITEM 51. Amend renumbered paragraph **120.9(12)“b”** as follows:

~~b. The results of the tests in paragraph 120.12(1)“a”~~ 120.12(2)“a” demonstrate that petroleum constituent concentrations for benzene, toluene, ethylbenzene, TEH-diesel, and MTBE are below the detection limits required by 567—Chapter 135.

ITEM 52. Amend subrule 120.10(1) as follows:

120.10(1) Access. Emergency response and remedial action plan (ERRAP) documents shall be readily available. ~~Multiuse landfarms shall maintain a copy of the ERRAP on site (e.g., the back of permit sign, fence post, or mailbox).~~ Single-use landfarm Landfarm applicators shall have employees carry a copy of the ERRAP document to each site where operations are taking place.

ITEM 53. Amend subrule 120.11(1) as follows:

120.11(1) Reporting. The following information shall be submitted to the department on a form provided by the department. All reporting submissions shall include the name, address, and telephone number of the landfarm and permit holder, as well as the permit number.

~~a. Storage notification. Multiuse and single-use landfarms~~ Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before receipt of the PCS for storage; however, at least 30 days' notification is encouraged. PCS storage information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 7 days of the emergency cleanup.

(1) to (3) No change.

~~b. Land application notification. Multiuse and single-use landfarms~~ Landfarms shall submit the following information to the department and department field office with jurisdiction over the landfarm before land application; however, at least 30 days' notification is encouraged. PCS information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 7 days of the emergency cleanup.

(1) The date the PCS is expected to be ~~land~~ applied to the land. If the PCS is not applied on this date, the department shall be informed of the actual application date.

(2) ~~Single-use landfarms shall submit an~~ A physical address, or parcel identification number for the landfarm location, a legible topographic map or aerial photo, a USDA soil map with key, and a map of the 100-year flood plain illustrating and labeling where the PCS is to be applied. ~~Multiuse landfarms shall report the landfarm plot(s) to which the PCS is to be applied.~~

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- (3) Application rate calculations pursuant to subrule 120.9(6).
- (4) The spill number, UST registration number, and LUST number, as applicable.

c. PCS analysis and characterization. Information on the analysis and characterization of the PCS pursuant to rule 567—120.6(455B) shall be submitted to the department before receipt of the PCS for storage or land application; however, at least 30 days' notification is encouraged. PCS analysis and characterization information from an emergency cleanup supervised by the department pursuant to subrule 120.6(1), however, shall be reported within 60 days of the emergency cleanup.

d. Groundwater monitoring well results. Multiuse landfarms shall annually test all groundwater monitoring wells as follows. A laboratory certified pursuant to 567—Chapter 83 for UST petroleum analyses shall test the samples. Test results for each well at a multiuse landfarm shall be submitted to the department by the first workday in January of each year.

~~(1) BTEX testing. The groundwater monitoring wells shall be tested for benzene, toluene, ethylbenzene, and xylene (BTEX). The BTEX analysis shall utilize the most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.~~

~~(2) TEH diesel and waste oil testing. The groundwater monitoring wells shall be tested for total extractable hydrocarbons (TEH diesel and waste oil). The TEH diesel and waste oil analyses shall utilize the most recent version of Method OA-2, "Extractable Petroleum Products (and Relatively Low Volatility Organic Compounds)," University of Iowa Hygienic Laboratory.~~

~~(3) MTBE testing. The groundwater monitoring wells shall be tested for MTBE unless prior analysis of PCS accepted for landfarming, pursuant to rule 567—135.15(455B), has shown that MTBE was not present in soil or groundwater of the source. A laboratory certified pursuant to 567—Chapter 83 for UST petroleum analyses shall test the samples. The analysis shall utilize one of the following methods:~~

~~1. The most recent version of Method OA-1 (GCMS), "Method for Determination of Volatile Petroleum Hydrocarbons (Gasoline)," University of Iowa Hygienic Laboratory.~~

~~2. U.S. Environmental Protection Agency (EPA) Method 8260B, SW-846, "Test Methods for Evaluating Solid Waste," Third Edition.~~

ITEM 54. Amend subrule 120.11(2), introductory paragraph, as follows:

120.11(2) Record keeping. All ~~landfarms~~ landfarm applicators shall maintain records of all information related to compliance with this chapter and the permit throughout the life of the landfarm and for three years after landfarm closure pursuant to rule 567—120.12(455B). This information shall be available to the department upon request. Applicable information includes, but is not limited to, the following material.

ITEM 55. Amend rule 567—120.12(455B) as follows:

567—120.12(455B) Landfarm closure. Unless otherwise required or approved by the department, landfarms shall be closed as follows: in one of the following ways:

~~**120.12(1) Multiuse landfarms.** Multiuse landfarms may be closed after groundwater monitoring well tests verify that down-gradient groundwater monitoring well results are within two standard deviations of the mean analyte concentrations, pursuant to paragraph 120.11(1)"d," in corresponding up-gradient monitoring wells for three consecutive years after the last application of PCS. Furthermore, prior to closure each landfarm plot shall be tested as follows. Closure is not official until verified in writing by the department.~~

~~*a.* One sample from each 10,000 ft² (e.g., 100-foot × 100-foot area) of landfarm plot is analyzed pursuant to subparagraphs 120.6(2)"c"(1), (2), and (3). A minimum of one sample per landfarm plot shall be obtained. All samples shall be obtained from between the top 2 to 6 inches of soil.~~

~~*b.* The results of the tests in paragraph 120.12(1)"a" demonstrate that petroleum constituent concentrations are less than 0.54 mg/kg for benzene, 42 mg/kg for toluene, 15 mg/kg for ethylbenzene, 3800 mg/kg for TEH diesel and 0.02 mg/kg for MTBE.~~

120.12(2) 120.12(1) Single-use landfarms. Three years after the application of PCS, or

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120.12(2) ~~Single-use landfarms are closed three years after the application of PCS, or at~~ At least six months after the application of PCS when documentation has been submitted and acknowledged in writing by the department that each landfarm plot has been tested as follows.

a. and b. No change.

ITEM 56. Amend rule 567—120.13(455B,455D) as follows:

567—120.13(455B,455D) Financial assurance requirements for ~~multiuse and single-use~~ landfarms. The holder of a sanitary disposal project permit for a ~~multiuse or single-use~~ landfarm must obtain and submit a financial assurance instrument to the department in accordance with this rule. The financial assurance instrument shall provide monetary funds for the purpose of conducting closure activities at the ~~operating area(s)~~ landfarm plot(s) due to the permit holder's failure to properly close the site as required in accordance with rule 567—120.12(455B) within 30 days of permit suspension, termination, revocation, or expiration.

120.13(1) *No permit without financial assurance.* The department shall not issue or renew a permit to an owner or operator of a ~~multiuse or single-use~~ landfarm until a financial assurance instrument has been submitted to and approved by the department.

120.13(2) *Proof of compliance.* Proof of the establishment of the financial assurance instrument and compliance with this rule, including a current closure cost estimate, shall be submitted ~~by July 1, 2008,~~ or at the time of application for a permit for a ~~new multiuse or single-use~~ landfarm applicator permit. The owner or operator must provide continuous coverage for closure and submit proof of compliance, including an updated closure cost estimate, with each permit renewal thereafter until released from this requirement by the department.

120.13(3) *Financial assurance amounts required.* The estimate submitted to the department must be certified by a professional engineer and account for at least the following factors determined by the department to be minimal necessary costs for closure pursuant to rule 567—120.12(455B):

a. Third-party costs to conduct ~~groundwater and~~ soil sampling and properly clean all equipment and storage areas at the ~~operating area(s)~~ landfarm plot(s).

b. No change.

120.13(4) *Acceptable financial assurance instruments.* The financial assurance instrument shall be established in an amount equal to the cost estimate prepared in accordance with subrule 120.13(3) and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Financial assurance may be provided by cash in the form of a secured trust fund or local government dedicated fund, surety bond, letter of credit, or corporate or local government guarantee as follows:

a. and b. No change.

*c. **Surety bond.*** A surety bond must be written by a company authorized by the commissioner of insurance to do business in the state. The surety bond shall comply with the following:

(1) No change.

(2) The bond shall be specific to a particular landfarm owner or operator for the purpose of funding closure in accordance with rule 567—120.12(455B) and removing any stockpiled PCS that may remain at the site(s) due to the owner's or operator's failure to properly close the site within 30 days of permit suspension, termination, revocation, or expiration.

(3) No change.

d. to f. No change.

120.13(5) *Financial assurance cancellation and permit suspension.*

a. to c. No change.

d. The owner or operator shall perform proper closure within 30 days of the permit suspension. For the purpose of this rule, "proper closure" means completion of all items pursuant to rule 567—120.12(455B) and subrule 120.13(3).

e. to g. No change.

ARC 6736C**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action****Proposing rule making related to home- and community-based services and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

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

Purpose and Summary

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2578, appropriated funds to increase specific home- and community-based services (HCBS) waiver and HCBS habilitation provider reimbursement rates over the rates in effect June 30, 2022, as follows:

- Increase rates for behavioral health intervention services (BHIS) by 20.6 percent.
- Increase rates for applied behavior analysis (ABA) by 8.9 percent.
- Increase rates for home health agencies providers located in rural areas. These are the providers covered under the low utilization payment adjustment (LUPA) methodology, whose rates may vary depending on type of provider. LUPA is a standard per-visit payment for episodes of care with a low number of visits. Currently, LUPA occurs when there are four or fewer visits during a 60-day episode of care.

As part of the American Rescue Plan Act (ARPA), Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent. The following changes are proposed as a result of the rate changes:

- Increase the reimbursement rates and upper rate limits for providers of HCBS waiver and habilitation services beginning July 1, 2022, by 4.25 percent over the rates that are in effect on June 30, 2022.
- Increase the monthly caps on the total monthly cost of HCBS waiver and habilitation services.
- Increase the monthly cap on HCBS support employment and intellectual disabilities (ID) waiver respite services.
- Increase the annual or lifetime limitations for home and vehicle modifications and specialized medical equipment.

The proposed amendments also correct the following technical errors:

- Remove the individual placement and support supported employment (IPS SE) from the HCBS waiver supported employment and add it under the HCBS habilitation supported employment services. IPS SE is only provided to individuals enrolled in the 1915(i) habilitation program.
- Align the total monthly cap on supported employment services under the HCBS habilitation program with the HCBS waiver employment service monthly cap, as is the current practice.

Fiscal Impact

During the 2022 Legislative Session, House File 2578 appropriated funds to increase home health agency rates for providers operating in rural areas and to increase BHIS and ABA provider rates. As part

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of the ARPA, Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent.

Jobs Impact

These proposed amendments raise the rate of reimbursement for rural home health agencies, behavioral health intervention and ABA. These amendments also raise the rate of reimbursement for HCBS waiver and HCBS habilitation service providers. This rate change will directly benefit HCBS members accessing consumer directed attendant care (CDAC) and consumer choices option (CCO) by enabling them to offer an increased wage to potential employees, which may increase the recruitment and retention rates of CDAC workers and CCO employees. This increase could assist HCBS providers with recruitment and retention efforts, which may provide improved quality of services for HCBS members. These amendments may have a positive influence on private-sector jobs and employment opportunities in Iowa.

Waivers

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

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

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

Public Hearing

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

Review by Administrative Rules Review Committee

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

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6735C**, IAB 12/14/22). 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 6741C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

The Inspections and Appeals Department hereby proposes to amend Chapter 1, “Administration,” Chapter 2, “Petitions for Rule Making,” Chapter 3, “Declaratory Orders,” Chapter 4, “Agency Procedure for Rule Making,” and Chapter 5, “Public Records and Fair Information Practices”; rescind Chapter 7, “Consent for the Sale of Goods and Services”; and amend Chapter 8, “Licensing Action for Nonpayment of Child Support and Prohibition of Licensing Action for Student Loan Default/Noncompliance With Agreement for Payment of Obligation,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 22.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 22.11.

Purpose and Summary

The Department completed a comprehensive review of Chapters 1 through 8 in accordance with Iowa Code section 17A.7(2). This proposed rule making updates descriptions of the Department’s administration and eliminates rules that are outdated and redundant, inconsistent, or incompatible with statute, the Department’s own rules, or the rules of other agencies.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 3, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend **481—Chapter 1**, preamble, as follows:

MISSION STATEMENT

The department's mission is to ~~assure state and federal program integrity by adjudicating, examining, and enforcing compliance to protect the health, safety and welfare of Iowans~~ achieve compliance through education, regulation, and due process for a safe and healthy Iowa.

ITEM 2. Amend subrule 1.1(1) as follows:

1.1(1) Overview of the department. The Iowa department of inspections and appeals ~~was is~~ established by Iowa Code sections ~~10A.101 to 10A.801~~ 10A.101 to 10A.802. The chief executive officer of the department is the director of the department of inspections and appeals, who shall be appointed by the governor to serve at the pleasure of the governor subject to confirmation by the senate no less frequently than every four years.

ITEM 3. Amend rule 481—1.2(10A) as follows:

481—1.2(10A) Definitions. ~~For rules of the department of inspections and appeals[481], the following definitions apply:~~ The definitions set forth in Iowa Code section 10A.101 are incorporated herein.

~~“Department” means the department of inspections and appeals.~~

~~“Director” means the director of the department.~~

ITEM 4. Amend rule 481—1.3(10A) as follows:

481—1.3(10A) Administration division. This division provides administrative support to the department, including fiscal, policy and planning, information technology, and public information. This division negotiates and provides oversight for compacts entered into between the state of Iowa and Indian tribes located in the state. The division also inspects and licenses the following ~~entities~~:

1. Social and charitable gambling pursuant to Iowa Code chapter 99B;
2. Food establishments, including but not limited to restaurants, vending ~~establishments~~ machines, and mobile food units, food processing plants, and home food processing plants;
3. ~~Hotels and home bakeries;~~
4. ~~Inspections for sanitation in any locality of the state upon written petition of five or more residents of the locality.~~

ITEM 5. Amend subrule 1.4(1) as follows:

1.4(1) Units of the division. The division is comprised of the following units.

~~a. Abuse coordinating unit. The abuse coordinating unit assists with the detection, investigation and prosecution of civil, administrative dependent adult abuse allegations in health care facilities.~~

~~b. a. Audit unit.~~ The audit unit audits health and human services health care facilities to review and verify facility resident billing and personal allowance accounts and to determine whether state billings

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

accurately reflect the health care facility census. The unit audits local department of human services offices to review and verify whether administrative expense claims and official receipts are in accordance with the criteria set forth in 2 CFR Part 200 and state law.

~~e. b.~~ *Economic fraud control bureau (EFCB).* The economic fraud control bureau ~~is comprised of two units.~~

~~(1) Program integrity/electronic benefit transfer (EBT) unit.~~ This unit investigates recipient public assistance fraud and ~~food assistance~~ supplemental nutrition assistance program (SNAP) trafficking. Division staff investigate suspected fraud and assist the department of human services to determine eligibility for public assistance. Division staff may conduct investigations relative to the administration of any other state or federal benefit assistance program. Division staff may also conduct investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

~~(2) Divestiture unit.~~ This unit investigates the transfer or assignment of a legal or equitable interest in property from a Medicaid recipient transferor to a transferee for less than fair consideration. The department may establish a debt against the transferee, due and owing to the department of human services, in an amount equal to the medical assistance provided, but not in excess of the fair consideration value of the assets transferred.

~~d. c.~~ *Medicaid fraud control unit (MFCU).* The Medicaid fraud control unit investigates allegations of fraud committed by providers against the Medicaid program as well as fraud in the administration of the Medicaid program. MFCU also investigates abuse, neglect or other crimes committed upon residents in care facilities or related programs that receive funding from the Medicaid program.

~~e.~~ *Professional standards unit.* The professional standards unit investigates licensed professionals for the professional licensure division of the department of public health. Licensing boards may refer professional practice inquiries to the unit for investigation. This unit does not conduct investigations on behalf of the board of medicine, the board of pharmacy, the dental board, or the board of nursing.

~~f. d.~~ *Public assistance debt recovery unit (PADRU).* The public assistance debt recovery unit investigates and initiates collections of overpayment debts owed to the department of human services.

ITEM 6. Amend subrule 1.6(1) as follows:

1.6(1) All hearings are governed by Iowa Code chapter 17A, other applicable statutes, including the transmitting agency's enabling statute and the statute authorizing the action taken, applicable agency rules, and the department's administrative rules found at 481—Chapter 10 ~~481—~~Chapters 9 to 11.

ITEM 7. Amend rule 481—1.8(10A) as follows:

481—1.8(10A) Employment appeal board. The employment appeal board consists of three members appointed by the governor, subject to confirmation by the senate, to staggered six-year terms. One member shall be qualified by experience and affiliation to represent employers, one member shall be qualified by experience and affiliation to represent employees, and one member shall represent the general public. This board hears and decides contested cases under Iowa Code chapters 8A, subchapter IV, 80, 88, 91C, 96, and 97B in accordance with administrative rules promulgated by the employment appeal board.

ITEM 8. Amend rule 481—1.11(10A,99D,99F) as follows:

481—1.11(10A,99D,99F) Racing and gaming commission. The Iowa racing and gaming commission regulates pari-mutuel ~~dog and~~ horse racing, ~~simulcasting~~, gambling structures, and excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests in Iowa. The commission, whose five members are appointed by the governor, ~~seeks to preserve the integrity of~~ administers the laws and rules associated with these industries and to maintain confidence in the industries ~~by protecting the public~~ and to ensure the integrity of licensed participants and operations for the state and the wagering public. In performing its duties, the commission investigates the eligibility of applicants for licensure and selects those that can best serve the citizens of Iowa. The commission adopts standards for the

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

licensing of racing industry occupations, as well as standards for the operation of all race meetings and facilities. The commission also adopts standards for the operation and licensing of pari-mutuel and simulcast wagering, gambling structures, and excursion gambling boats, racetrack enclosures, sports wagering, and fantasy sports contests.

ITEM 9. Adopt the following new rule 481—1.12(10A,68B):

481—1.12(10A,68B) Consent for the sale of goods and services. An official or employee of the department shall not directly or indirectly sell or lease any goods, real estate, or services to individuals, associations, or corporations subject to the regulatory authority of the official's or employee's agency except as provided by Iowa Code section 68B.4 and rule 351—6.11(68B).

ITEM 10. Amend **481—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 10A, 13B, 68B, 99D, 99F, and 237.

ITEM 11. Amend rule 481—2.1(17A) as follows:

481—2.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the agency at the Lucas State Office Building, Des Moines, Iowa 50319. A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS

Petition by (Name of Original Petitioner)
for (the adoption, amendment, or repeal)
of rules relating to (state subject matter).



PETITION FOR
RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed.
2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.
3. A brief summary of petitioner's arguments in support of the action urged in the petition.
4. A brief summary of any data supporting the action urged in the petition.
5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the proposed action which is the subject of the petition.
6. Any request by petitioner for a meeting provided for by rule 481—2.4(17A).

2.1(1) and 2.1(2) No change.

ITEM 12. Amend **481—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 17A.7 ~~as amended by 1998 Iowa Acts, chapter 1202, section 11.~~

ITEM 13. Amend **481—Chapter 3**, preamble, as follows:

The department of inspections and appeals adopts, with the following amendments, the declaratory orders segment of the Uniform Rules on Agency Procedure ~~printed in the first volume of the Iowa Administrative Code with the following amendments~~, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

ITEM 14. Amend **481—Chapter 3**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202, section 13.~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 15. Amend 481—Chapter 4, preamble, as follows:

The department of inspections and appeals adopts, with the following amendments, the agency procedure for rule making segment of the Uniform Administrative Rules ~~printed in the first Volume of the Iowa Administrative Code with the following amendments~~, which are published on the Iowa general assembly's website at www.legis.iowa.gov/DOCS/Rules/Current/UniformRules.pdf.

ITEM 16. Amend subrule 4.5(5) as follows:

4.5(5) Accessibility. In lieu of the words “(designate office and telephone number)”, insert “the ~~administrative services bureau~~ department at (515)281-6407 (515)281-7102”.

ITEM 17. Rescind and reserve rule **481—4.10(17A)**.

ITEM 18. Amend **481—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 17A ~~as amended by 1998 Iowa Acts, chapter 1202~~, and Iowa Code section 25B.6.

ITEM 19. Amend paragraph **5.9(2)“a”** as follows:

a. For a routine use as defined in rule 481—5.10(17A,22) or in the notice for a particular record system.

ITEM 20. Amend rule 481—5.11(17A,22) as follows:

481—5.11(17A,22) Consensual disclosure of confidential records.

5.11(1) Consent to disclosure by a subject individual. To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 481—5.7(17A,22).

5.11(2) No change.

5.11(3) Obtaining information from a third party. The department of inspections and appeals occasionally requests personally identifiable information from third parties during the course of its authorized audits, investigations, hearings or inspections. Requests to third parties for this information involve the release of confidential identifying information. ~~These requests and shall be made according to the following rules:~~ in accordance with the department's pertinent statutory authority.

~~481—21.3(10A) indicates when the department may review trust account records.~~

~~481—72.3(10A) describes investigation procedures including forms used by food stamp investigators.~~

~~481—73.6(10A) explains audit investigative procedures used in Medicaid provider audits or investigations.~~

~~481—74.3(10A) describes procedures used to investigate possible public assistance fraud.~~

5.11(4) Child support recovery unit. ~~Under the provision of Iowa Code Supplement section 252J.2(4), the department may share information~~ Information shared by or with the child support recovery unit of the department of human services ~~through manual or automated means for the sole purpose of identifying licensees or license applicants subject to enforcement under Iowa Code Supplement chapter pursuant to Iowa Code chapter 252J or 598~~ shall only be used as set forth in Iowa Code section 252J.2(4).

ITEM 21. Amend subrule 5.12(1), introductory paragraph, as follows:

5.12(1) A written request to review confidential records may be filed by the subject of the record as provided in rule 481—5.6(17A,22). The department need not release the following records to the subject:

ITEM 22. Amend subrule 5.13(1) as follows:

5.13(1) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to c. No change.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

d. Minutes of closed meetings of a government body. (Iowa Code section ~~21.5(4)~~ 21.5(5))

e. and *f.* No change.

g. Confidential records are also described in the rules of each division as follows:

(1) ~~Inspection records—Chapters 50 to 69.~~

(2) ~~Investigation records—Chapters 70 to 74.~~

(3) ~~Audit records—Chapters 21 and 22.~~

(4) ~~Hearing records—Chapters 10 and 11.~~

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(e) Rule of Civil Procedure 1.503(3), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. No change.

ITEM 23. Amend rule 481—5.14(17A,22) as follows:

481—5.14(17A,22) Authority to release confidential records. The department may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 481—5.4(17A,22). If the department initially determines that it will release these records, the department may notify interested parties and withhold the records from inspection as provided in subrule 5.4(3).

ITEM 24. Amend rule 481—5.16(17A,22) as follows:

481—5.16(17A,22) Personally identifiable information. The department maintains systems of records which contain personally identifiable information.

5.16(1) Rule making. Rule-making records may contain information about people who make written or oral comments about proposed rules. Iowa Code section 17A.4 requires collection and retention of this information. ~~It cannot be retrieved by an individual identifier. It is not stored in a computer system.~~

~~During the rule-writing process, committees are occasionally used to gather basic information. Minutes of committee meetings are available for public inspection. The minutes are retained. Minutes of meetings are not retrievable by personal identifier. Minutes collected and stored in the health facilities division are available from the Health Facilities Division, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319, in compliance with Iowa Code section 135C.14.~~

5.16(2) Appeals and fair Administrative hearings division. Contested case records are maintained in ~~paper and computer~~ electronic files and contain names and identifying numbers of people involved. Evidence and documents submitted as a result of a hearing are contained in the contested case ~~records~~ file.

Records are collected by authority of Iowa Code ~~section 10A.202~~ chapter 10A. None of the information stored in a data processing system is compared with information in any other data processing system.

Records of hearings are recorded ~~on magnetic cassette tapes~~ digitally or in written transcripts.

5.16(3) Appellate defender. By authority of Iowa Code ~~chapter 13B~~, the appellate defender maintains information and records relating to criminal and postconviction relief cases that are being appealed. Records contain names and identifying numbers of persons involved in these cases, and are maintained in paper and electronic files. Case information is not stored in a data processing system and cannot be compared with information in any data processing system. By authority of Iowa Code section ~~940A.13~~ 915.36, the appellate defender shall not disclose the names of child victims. Presentence investigation reports in the possession of the appellate defender are confidential records pursuant to Iowa Code section 901.4.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Litigation files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorney's notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain material which is confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain them from the clerk of the appropriate court which maintains the official copy.

~~5.16(4)~~ *Audits division.* Paper files stored according to a person's or company's name are collected for purposes of auditing gaming, beer, wine, liquor, or real estate licenses. In each case the name of the licensee is part of the record. The list below shows Iowa Code authority for collection of information about those who hold:

Gaming licenses, 99B.2(2)

Beer permits, 123.138

Liquor control licenses, 123.33

Wine permits, 123.185

Real estate broker licenses, 543B.46

The audits division can also access computer records about real estate brokers or sales people by name. The data processing system is owned by the department of commerce. Historical information regarding licensure, audits, and disciplinary action is stored in this system.

All of these records are used to conduct audits according to Iowa Code section 10A.302.

~~5.16(5)~~ 5.16(4) *Investigations division.* Paper and data processing files are stored and Files are stored electronically using encrypted cloud storage and state-administered servers. Electronic records are retrievable using a name, social security number, or state identification number, or other program identifier, as applicable. Computer records are also kept on microfiche. Personal computer floppy disks are used to monitor referral information and civil or small claims actions.

All records are collected and stored by the investigations division pursuant to Iowa Code section 10A.402. All records are collected to decrease mispayments in human services programs or to help collect funds paid in error.

Comparisons between record systems are explained in rule 481—71.8(10A) 481—90.8(10A).

~~5.16(6)~~ 5.16(5) *Inspections Health facilities division.* Records of the health facilities division are collected pursuant to Iowa Code sections 10A.702, 235E.2, and other entity- and program-specific authority. Records are maintained in paper and electronic files and may contain personally identifiable information. Records may be compared with information on data processing systems, including the direct care worker registry, and may be retrievable by personal identifier. A general list of records considered confidential is available in rule 481—50.8(10A).

~~a.—By authority of Iowa Code chapters 232 and 217, child protective investigation records are collected in paper files and may contain names and social security numbers of people involved in child protective investigations. The division does not compare these records with information on a data processing system.~~

~~b.—Names or social security numbers collected during license processing are stored in paper and computer files pursuant to Iowa Code section 10A.501(2).~~

~~c.—The records in health facilities are not retrievable by personal identifier. A list of records considered confidential is available in rule 481—50.8(10A).~~

ITEM 25. Rescind and reserve ~~481—~~Chapter 7.

ITEM 26. Amend subrule 8.1(1) as follows:

8.1(1) The notice required by Iowa Code section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with R.C.P. 56.1 Iowa Rule of Civil Procedure 1.305. Alternatively, the applicant or licensee may accept service personally or through authorized counsel.

ARC 6745C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

The Inspections and Appeals Department hereby proposes to amend Chapter 11, “Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104, 10A.801 and 724.21A(6).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 10A.801, 17A.7(2) and 724.21A(6).

Purpose and Summary

The Department completed a review of Chapter 11 in accordance with the requirements of Iowa Code section 17A.7(2). This proposed rule making adds references to filing appeals through the Administrative Electronic Document Management System (AEDMS) pursuant to Chapter 16, eliminates redundancy by reference to Iowa Code chapter 17A and Chapter 10, and eliminates outdated citations.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 3, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrules 11.2(1) and 11.2(2) as follows:

11.2(1) *Written appeal.* The appeal shall be in writing or filed electronically pursuant to 481—Chapter 16 and should state the reasons for rebutting the denial, suspension, or revocation.

11.2(2) *Filing of appeal.* Within 30 days of the applicant's or permittee's receipt of the agency's decision, the applicant or permittee shall file the appeal, a copy of the agency's written decision, and a fee of \$10 with the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, 502 East 9th Street, Des Moines, Iowa 50319, or electronically pursuant to 481—Chapter 16.

ITEM 2. Amend subrule 11.3(1) as follows:

11.3(1) *The* In addition to the information set forth in Iowa Code section 17A.12(2), the notice of hearing shall contain the following information:

~~a.~~ A statement of the time, place, and nature of the hearing;

~~b.~~ A statement of the legal authority and jurisdiction under which the hearing is to be held;

~~c.~~ A reference to the agency decision on appeal;

~~d.~~ a. Identification of the parties;

~~e.~~ b. Reference to the procedural rules governing the contested case proceeding;

~~f.~~ c. Identification of the administrative law judge, including the judge's contact information;

~~d.~~ d. Requirements for the filing and service of a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding;

~~g.~~ e. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment;

~~h.~~ f. Notification that the applicant or permittee shall be required to pay the agency's reasonable attorney fees and court costs if the agency's decision is affirmed in the contested case proceeding or in subsequent judicial review of the proceeding, or if the applicant or permittee withdraws or dismisses the contested case proceeding or subsequent judicial review action; and

~~i.~~ g. Notification that the agency shall be required to pay the applicant's or permittee's reasonable attorney fees and court costs if it is determined in the contested case proceeding or in subsequent judicial review of the proceeding that the applicant or permittee is eligible to be issued or to possess the permit that was denied, suspended, or revoked.

ITEM 3. Amend rule 481—11.6(17A) as follows:

481—11.6(17A,724) *Service and filing of documents.* Service and filing of documents shall be in accordance with rule 481—10.12(17A).

11.6(1) *When service is required.* ~~Every pleading, motion, or other document filed in the contested case proceeding shall be served on each of the parties to the proceeding, including the agency. Except for an application for rehearing as provided in rule 481—11.14(17A) and Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~11.6(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivering, mailing, or transmitting by facsimile (fax) or by electronic mail (e-mail) a copy to the party or attorney at the party's or attorney's last known mailing address, fax number, or e-mail address. Service by first-class mail is complete upon mailing. Service by fax or electronic mail is complete upon transmission unless the party making service learns that the attempted service did not reach the person to be served.~~

~~11.6(3) *Filing with the division.* Every pleading, motion, or other document in the contested case proceeding shall be filed with the division. All documents that are required to be served upon a party shall be filed simultaneously with the division.~~

~~a. Except where otherwise provided by law, a document is deemed filed with the division at the time it is:~~

~~(1) Delivered to the division at the Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa, and date-stamped received;~~

~~(2) Delivered to an established courier service for immediate delivery to the division;~~

~~(3) Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing; or~~

~~(4) Transmitted by facsimile (fax) to (515)281-4477, by electronic mail (e-mail) to adminhearings@dia.iowa.gov, or by other electronic means approved by the division, as provided in subrule 11.6(3), paragraph "b."~~

~~b. All documents filed with the division pursuant to these rules, except a person's written appeal pursuant to rule 481—11.2(724), may be filed by facsimile (fax), electronic mail (e-mail), or other electronic means approved by the division. A document filed by fax, e-mail, or other approved electronic means is presumed to be an accurate reproduction of the original. If a document filed by fax, e-mail, or other approved electronic means is illegible, a legible copy may be substituted and the date of filing shall be the date the illegible copy was received. The date of filing by fax, e-mail, or other approved electronic means shall be the date the document is received by the division. The division will not provide a mailed file-stamped copy of documents filed by fax, e-mail, or other approved electronic means.~~

~~11.6(4) *Proof of mailing.* Adequate proof of mailing includes the following:~~

~~a. A legible United States postal service postmark on the envelope;~~

~~b. A certificate of service;~~

~~c. A notarized affidavit; or~~

~~d. A certification in substantially the following form:~~

~~I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections and Appeals, Administrative Hearings Division, Wallace State Office Building, Third Floor, 502 East Ninth Street, Des Moines, Iowa 50319, and to the names and addresses of the parties listed below by depositing the same in a United States post office mailbox with correct postage properly affixed.~~

~~(date)~~

~~(signature)~~

This rule is intended to implement Iowa Code section 724.21A.

ITEM 4. Amend rule 481—11.7(17A) as follows:

481—11.7(17A) Witness lists and exhibits. No later than five days before the hearing, a party shall serve on all parties and shall file with the division a witness list and a copy of any exhibit(s) the party intends to introduce into evidence during the contested case proceeding. If a party fails to serve on all parties and file with the division a witness list or any exhibit five days before the hearing as set forth in the notice of hearing, the party may be precluded from calling the witness at hearing or introducing the exhibit(s) into the record at hearing.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 5. Amend rule 481—11.8(17A) as follows:

481—11.8(17A) Evidence. ~~The administrative law judge shall rule on the admissibility of evidence and may take official notice of facts in accordance with applicable requirements of law. Evidence in the proceeding shall be confined to the issues for which the parties received notice prior to the hearing. Evidence shall be governed by rule 481—10.21(17A).~~

ITEM 6. Amend rule 481—11.11(10A), parenthetical implementation statute, as follows:

481—11.11(10A,724) Attorney fees, court costs, and contested case costs.

ITEM 7. Amend rule **481—11.11(10A)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section sections 10A.801 as amended by 2017 Iowa Acts, House File 640; and section 724.21A as amended by 2017 Iowa Acts, House File 517.

ITEM 8. Amend rule 481—11.14(17A) as follows:

481—11.14(17A) Rehearing. ~~An applicant, permittee, or agency aggrieved by an administrative law judge's final decision rescinding or sustaining the agency's denial, suspension, or revocation may request rehearing. A request for rehearing shall be made by filing an application for rehearing with the division within 20 days of the date of the administrative law judge's final decision and must state the specific grounds for the rehearing and the relief sought. If the only relief sought relates to the award of attorney fees, the application must include any argument and relevant evidence to be considered on rehearing. An application for rehearing shall be deemed to have been denied unless the administrative law judge grants the application within 20 days after its filing. A request for rehearing is not necessary to exhaust administrative remedies. A request for rehearing may be filed in accordance with Iowa Code section 17A.16(2).~~

This rule is intended to implement Iowa Code section sections 724.21A as amended by 2017 Iowa Acts, House File 517; and section 17A.16.

ARC 6744C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

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

The Inspections and Appeals Department hereby proposes to amend Chapter 30, "Food and Consumer Safety," and Chapter 37, "Hotel and Motel Inspections," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 137C.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 137C.7.

Purpose and Summary

The Department completed a review of Chapter 37 in accordance with the requirements of Iowa Code section 17A.7(2). This proposed rule making eliminates redundancy within Chapter 37 by adding references to Iowa Code chapter 137C and removing outdated rules and citations. It also makes conforming changes within Chapter 30.

INSPECTIONS AND APPEALS DEPARTMENT[481](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 481—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 Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule **481—30.2(10A,137C,137F)**, definitions of “Bed and breakfast inn” and “Hotel,” as follows:

“Bed and breakfast inn” means a hotel which has nine or fewer guest rooms the same as defined in Iowa Code section 137C.2.

“Hotel” means any building equipped, used or advertised to the public as a place where sleeping accommodations are rented to temporary or transient guests the same as defined in Iowa Code section 137C.2.

ITEM 2. Amend subrule 30.4(4) as follows:

30.4(4) Hotels. License fees for hotels are based on the number of rooms provided to transient guests (Iowa Code section 137C.9) as follows: shall be as set forth in Iowa Code section 137C.9.

a. For 1 to 30 guest rooms—\$50.

b. For 31 to 100 guest rooms—\$100.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~c. For 101 or more guest rooms—\$150.~~

ITEM 3. Amend subrule 30.8(4) as follows:

30.8(4) Hotels. Hotels shall be inspected at least once biennially in accordance with Iowa Code chapter 137C.

ITEM 4. Amend rule 481—37.2(137C) as follows:

481—37.2(137C) Guest rooms. Hotels built or extensively remodeled, as determined by the department, ~~after January 1, 1979,~~ shall provide ventilation in guest rooms with windows or mechanical devices. The furniture, drapes and accessories shall be kept clean and in good repair.

ITEM 5. Amend rule 481—37.4(137C), introductory paragraph, as follows:

481—37.4(137C) Lavatory facilities. Hotels built or remodeled ~~after January 1, 1979,~~ shall have lavatory facilities in each guest room, except for bed and breakfast inns.

ITEM 6. Rescind and reserve rule **481—37.6(137C).**

ITEM 7. Amend rule 481—37.7(137C) as follows:

481—37.7(137C) Room rates. ~~A list visible to the public posted near the office shall indicate room numbers and floor and the cost per day per person. The cost per day per person shall also be posted in each room.~~ Room rates shall be posted in accordance with Iowa Code chapter 137C.

ITEM 8. Amend rule 481—37.8(137C) as follows:

481—37.8(137C) Inspections. Hotels shall be inspected ~~at least once biennially.~~ An inspector may enter a hotel at any reasonable hour and shall be given free access to every part of the premises for each inspection. The inspector shall receive any help needed to make a thorough and complete inspection in accordance with Iowa Code chapter 137C.

ITEM 9. Amend rule 481—37.9(137C) as follows:

481—37.9(137C) Enforcement. Violation of these rules or any provision of Iowa Code chapter 137C is a simple misdemeanor. The department may employ various remedies if violations are discovered, including suspension or revocation of licenses (Iowa Code section 137C.10), injunction (Iowa Code section 137C.29), or referral for criminal prosecution (Iowa Code chapter 137C).

~~A license may be revoked.~~

~~An injunction may be sought.~~

~~A case may be referred to a county attorney for criminal prosecution.~~

ITEM 10. Amend rule 481—37.10(137C) as follows:

481—37.10(137C) Criminal offense—conviction of license holder.

37.10(1) The department may suspend or revoke the license of a license holder who: conducts an activity constituting a criminal offense as set forth in Iowa Code section 137C.10(3).

~~a. Conducts an activity constituting a criminal offense in the licensed hotel or motel establishment;~~
and

~~b. Is convicted of a felony as a result.~~

37.10(2) The department may ~~suspend or revoke~~ the license of a license holder who:

~~a. Conducts an activity constituting a criminal offense in the licensed hotel or motel establishment;~~
and

~~b. Is convicted of a serious misdemeanor or aggravated misdemeanor as a result.~~

37.10(3) 37.10(2) A certified copy of the final order or judgment of conviction or plea of guilty shall be conclusive evidence of the conviction of the license holder.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

~~37.10(4) The department's decision to revoke or suspend a license may be contested by the adversely affected party pursuant to the provisions of 481—30.13(10A).~~

This rule is intended to implement Iowa Code section 137C.10(3).

ARC 6743C**INSPECTIONS AND APPEALS DEPARTMENT[481]****Notice of Intended Action****Proposing rule making related to contractor requirements
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 35, “Contractor Requirements,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 10A.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104 and 17A.7(2).

Purpose and Summary

The Department completed a comprehensive review of Chapter 35 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making updates outdated citations and aligns reporting requirements with current practices.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 3, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.iowa.gov

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Public Hearing

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

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 481—35.1(137C,137D,137F) as follows:

481—35.1(137C,137D,137F) Definitions. The definitions in 481—30.2(10A,137C,137F) and Iowa Code sections 137C.2, and 137D.1 and ~~Iowa Code Supplement section 137F.1~~ are hereby incorporated by reference as part of this chapter.

ITEM 2. Amend rule 481—35.6(137C,137D,137F) as follows:

481—35.6(137C,137D,137F) Inspection standards. Inspections shall be completed using forms prescribed by the department for those inspections. The contractor shall follow applicable standards for inspections found in Iowa Code chapters 137C, 137D and 137F ~~as amended by 2007 Iowa Acts, chapter 215~~. Inspections shall be conducted pursuant to 481—Chapters 30, 31, 34, 35, and 37.

Copies of inspection standards are available from the Department of Inspections and Appeals, Food and Consumer Safety Bureau, Lucas State Office Building, Des Moines, Iowa 50319-0083.

ITEM 3. Rescind rule **481—35.10(137C,137D,137F)**.

ITEM 4. Renumber rule **481—35.11(137C,137D,137F)** as **481—35.10(137C,137D,137F)**.

ITEM 5. Amend renumbered rule 481—35.10(137C,137D,137F) as follows:

481—35.10(137C,137D,137F) Contract rescinded. If the department determines that Iowa Code chapters 137C, 137D and 137F ~~as amended by 2007 Iowa Acts, chapter 215~~, are not being enforced by the contractor, the department may rescind the agreement. Notification of the department's action will be provided to the contractor at least 30 days in advance of the action. The contractor has the right to request a hearing with the department to contest the action.

ITEM 6. Amend **481—Chapter 35**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 137C, 137D and 137F ~~as amended by 2007 Iowa Acts, chapter 215~~.

ARC 6742C

INSPECTIONS AND APPEALS DEPARTMENT[481]**Notice of Intended Action****Proposing rule making related to governor's award for quality care
and providing an opportunity for public comment**

The Inspections and Appeals Department hereby proposes to amend Chapter 54, “Governor’s Award for Quality Care,” Iowa Administrative Code.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 10A.104 and 135C.20B(2).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 10A.104, 17A.7(2) and 135C.20B(2).

Purpose and Summary

The Department completed a review of Chapter 54 in accordance with the requirement in Iowa Code section 17A.7(2). This proposed rule making amends rule 481—54.8(135C) to provide flexibility in the presentation of the Governor's Award for Quality Care.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

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 January 3, 2023. Comments should be directed to:

Ashleigh Hackel
Iowa Department of Inspections and Appeals
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Email: ashleigh.hackel@dia.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).

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

The following rule-making action is proposed:

Amend rule 481—54.8(135C) as follows:

481—54.8(135C) Certificate of recognition. Prior to the final selection of facilities, representatives from the department will tour all facilities still in contention to determine the winners. Each winning facility will receive a certificate in recognition of its designation as a quality health care provider. The winning facilities shall be announced and recognized annually ~~at the governor's conference on aging.~~

ARC 6740C

INSURANCE DIVISION[191]

Notice of Intended Action

**Proposing rule making related to pharmacy benefits managers
and providing an opportunity for public comment**

The Insurance Division hereby proposes to amend Chapter 59, "Pharmacy Benefits Managers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 510, 510B and 510C and 2022 Iowa Acts, House File 2384, section 22.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2384.

Purpose and Summary

The proposed amendments update Chapter 59 to implement changes made in 2022 Iowa Acts, House File 2384, regarding pharmacy benefits managers.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 4:30 p.m. on January 5, 2023. Comments should be directed to:

INSURANCE DIVISION[191](cont'd)

Andria Seip
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6575
Email: andria.seip@iid.iowa.gov

Public Hearing

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

January 5, 2023
1 to 3 p.m.

1963 Bell Avenue, Suite 100
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing must submit a request to Angela Burke Boston prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Angela Burke Boston via email at angela.burke.boston@iid.iowa.gov or by telephone at 515.654.6543 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).

Emergency Rule Making Adopted by Reference

This proposed rule making is also published herein as an Adopted and Filed Emergency rule making (see **ARC 6739C**, IAB 12/14/22). 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 6754C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Proposing rule making related to lifetime trout fishing license for disabled veterans and annual fishing and hunting licenses for veterans and providing an opportunity for public comment

The Natural Resource Commission (Commission) hereby proposes to amend Chapter 15, "General License Regulations," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455A.5(6)"a" and 483A.1(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate Files 581 and 2383.

NATURAL RESOURCE COMMISSION[571](cont'd)

Purpose and Summary

Chapter 15 establishes hunting, fishing, and trapping license fees and governs license sales and refunds, among other topics. Iowa law requires most persons, whether residents or nonresidents, to obtain an applicable license and pay a fee prior to fishing, hunting, or trapping.

Recent legislation created or modified several licenses. First, 2022 Iowa Acts, Senate File 581, expands eligibility for lifetime trout fishing licenses to Iowa residents who “qualif[y] for the disabled veteran homestead credit under section 425.15.” Second, 2022 Iowa Acts, Senate File 2383, establishes a new annual armed forces fishing license and a new annual armed forces hunting and fishing combined license. These new licenses are available for Iowa residents who have served in the armed forces of the United States on federal active duty (collectively, “veteran licenses”). The legislation provides that the fee for the new veteran licenses shall be no more than \$5.

Iowa Code section 483A.1 requires that all license fees be promulgated in rule. Accordingly, this proposed rule making adds these new licenses to Chapter 15 and establishes a \$5 fee for each of the new veteran licenses. The lifetime trout fishing fee of \$63 already exists in Chapter 15.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

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 January 24, 2023. Comments should be directed to:

Joe Larscheid
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Fax: 515.725.8201
Email: fisheries@dnr.iowa.gov

Public Hearing

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

January 24, 2023
10 a.m.

Video/conference call

NATURAL RESOURCE COMMISSION[571](cont'd)

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

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

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Adopt the following new paragraphs **15.12(1)“hh,” “ii” and “jj”**:

hh. Trout fishing license, lifetime, disabled veteran — \$63.

ii. Fishing license, annual, veteran — \$5.

jj. Combination hunting and fishing license, annual, veteran — \$5.

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 2022 by each taxpayer to determine the tax due for each taxpayer in the 2023-2024 fiscal year.

2022 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	0.00015473
3073	Auburn Municipal Utility	0.00015586
3074	Aurelia Mun. Electric Utility	0.00000000
3211	Bancroft Municipal Utilities	0.00090096
3213	Bellevue Municipal Utilities	0.00007813
3228	Bigelow Municipal Electric Utility	0.00048654
3229	Bloomfield Municipal Electric Utility	0.00003607

REVENUE DEPARTMENT[701]

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3075	Breda Mun. Electric System	0.00000000
3076	Brooklyn Municipal Utilities	0.00132929
3216	Buffalo Municipal Electric System	0.00000225
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
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	0.00000566
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	0.00004374
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	0.00000542

REVENUE DEPARTMENT[701]

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3095	Greenfield Municipal Utilities	0.00110806
3096	Grundy Center Light & Power	0.00022173
3232	Guttenberg Municipal Electric	0.00002873
3263	Harlan Municipal Utilities	0.00139596
3097	Hartley Municipal Utilities	0.00000000
3098	Hawarden Municipal Utility	0.00000000
3099	Hinton Municipal Electric/Water	0.00006822
3267	Hopkinton Municipal Utilities	0.00000918
3100	Hudson Municipal Utilities	0.00000000
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	0.00140260
3276	LaPorte City Utilities	0.00000998
3277	Laurens Municipal Utilities	0.00029015
3109	Lenox Mun. Light & Power	0.00057374
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	0.00025068
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	0.00006300
3119	Paton Municipal Utilities	0.00000000
3120	Paullina Municipal Utilities	0.00000000
3121	Pocahontas Municipal Utilities	0.00000000
3122	Preston Municipal Utilities	0.00000000

REVENUE DEPARTMENT[701]

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
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
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.	0.00000734
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

REVENUE DEPARTMENT[701]

CO. #	IOUs — ELECTRIC	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00060538
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	0.00249144
7296	Nebraska Public Power District	0.00000000
7302	Northwestern Corporation	0.00000000
7305	Omaha Public Power District	0.00123835
7334	Union Electric	0.00000000

CO. #	RECs	DELIVERY TAX RATE
4319	Access Energy Coop	0.00047950
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	0.00065438
4219	Calhoun County Electric Coop	0.00109354
4220	Cass Electric Coop	0.00004596
4224	Central Iowa Power Coop	0.00000000
4225	Chariton Valley Electric Coop	0.00102029
4235	Clarke Electric Coop	0.00234795
4287	Consumers Energy	0.00131067
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	0.00258206
4249	Farmers Electric Coop - Kalona	0.00047680
4251	Federated Rural Electric	0.00033479
4253	Franklin Rural Electric Coop	0.00081291
4254	Freeborn-Mower Cooperative	0.00165241
4255	Glidden Rural Electric Coop	0.00072443
4259	Grundy County REC	0.00066370
4260	Grundy Electric Cooperative	0.00052083
4261	Guthrie County REC	0.00121604
4262	Hancock Co. REC	0.00097751
4265	Harrison County REC	0.00061148
4266	Hawkeye REC	0.00051726
4223	Heartland Power Coop	0.00033885
4268	Humboldt County REC	0.00096090
4273	Iowa Lakes Electric Coop	0.00068661
4279	Linn County REC	0.00133993

REVENUE DEPARTMENT[701]

CO. #	RECs	DELIVERY TAX RATE
4280	Lyon Rural Electric Coop	0.00051847
4286	Maquoketa Valley Electric Coop	0.00221262
4290	Midland Power Cooperative	0.00094536
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	0.00022723
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
4329	T.I.P. Rural Electric Coop	0.00203782
4333	Tri-County Electric Coop	0.00092430
4336	United Electric Coop	0.00123613
4348	Western Iowa Power Coop	0.00108160
4352	Woodbury County REC	0.00104762
4353	Wright County REC	0.00040495

2022 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5021	Bedford Municipal Gas	0.00000000
5215	Brighton Gas	0.00701487
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	0.00004455
5241	Corning Municipal Gas	0.00000765
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

REVENUE DEPARTMENT[701]

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5275	Lamoni Municipal Gas	0.00097388
5037	Lenox Municipal Gas	0.00000000
5038	Lineville City Natural Gas	0.00000000
5039	Lorimor Municipal Gas	0.00000000
5281	Manilla Municipal Gas	0.00043741
5283	Manning Municipal Gas	0.00010889
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	0.00000000
5042	Moulton Municipal Gas	0.00000000
5306	Osage Municipal Gas	0.00002456
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	0.00000000
5055	Remsen Municipal Gas	0.00000000
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	0.00002771
5065	Whittemore Municipal Gas	0.00000000
5349	Winfield Municipal Gas	0.00079637
5066	Woodbine Gas	0.00000000

CO. #	IOUs — GAS	DELIVERY TAX RATE
5204	Allerton Gas	0.02238996
5270	IES Utilities-Gas	0.00677129
5272	Interstate Power-Gas	0.00250175
5289	MidAmerican Energy-Gas	0.00641133
5312	Peoples Natural Gas	0.00640722
5335	United Cities Gas	0.00677422

REVENUE DEPARTMENT[701]

2022 MUNICIPAL NATURAL GAS TRANSFER REPLACEMENT TAX RATES

CO. #	COMPANY	REPLACEMENT TAX RATE
5401	Alton Municipal Gas	*
5021	Bedford Municipal Gas	*
5215	Brighton Gas	*
5023	Brooklyn Municipal Gas	*
5024	Cascade Municipal Gas	0.00000000
5025	Cedar Falls Municipal Gas	0.01069652
5022	City of Bloomfield	0.00026682
5026	City of Clearfield	*
5028	City of Everly	*
5029	City of Fairbank	*
5238	Coon Rapids Municipal Gas	*
5241	Corning Municipal Gas	*
5027	Emmetsburg Municipal Gas	*
5030	Gilmore City Municipal Gas	*
5031	Graettinger Municipal Gas	0.64916833
5032	Guthrie Center Municipal Gas	*
5033	Harlan Municipal Gas	*
5034	Hartley Municipal Gas	*
5035	Hawarden Municipal Gas	*
5036	Lake Park Municipal Gas	0.00789870
5275	Lamoni Municipal Gas	0.00252702
5037	Lenox Municipal Gas	*
5038	Lineville City Natural Gas	*
5039	Lorimor Municipal Gas	*
5281	Manilla Municipal Gas	*
5283	Manning Municipal Gas	*
5402	Mapleton Municipal Gas	0.00000000
5040	Montezuma Natural Gas	0.00000000
5041	Morning Sun Municipal Gas	*
5042	Moulton Municipal Gas	*
5369	Orange City Municipal Gas	*
5306	Osage Municipal Gas	0.00552269
5043	Prescott Municipal Gas	0.00000000
5044	Preston Municipal Gas	*
5055	Remsen Municipal Gas	*
5317	Rock Rapids Municipal Gas	0.01004339
5056	Rolfe Municipal Gas	*
5057	Sabula Municipal Gas	*
5058	Sac City Municipal Gas	*
5059	Sanborn Municipal Gas	*
5060	Sioux Center Municipal Gas	0.00941669
5061	Tipton Municipal Gas	*

REVENUE DEPARTMENT[701](cont'd)

CO. #	COMPANY	REPLACEMENT TAX RATE
5067	Wall Lake Municipal Gas	*
5063	Waukee Municipal Gas	*
5340	Wayland Municipal Gas	0.03933910
5064	Wellman Municipal Gas	*
5344	West Bend Municipal Gas	0.04863942
5065	Whittemore Municipal Gas	*
5349	Winfield Municipal Gas	*
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 2022 by each taxpayer to determine replacement taxes payable in the 2023-2024 fiscal year.

2022 RATE-REGULATED WATER UTILITIES DELIVERY TAX RATE BY SERVICE AREA

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

ARC 6748C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to department contact information updates and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 25, “Challenges to Administrative Levies and Publication of Names of Debtors,” and Chapter 262, “Administration of Marijuana and Controlled Substances Stamp Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapter 453B and sections 421.14, 421.17A and 421.17B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 453B and sections 421.17A and 421.17B.

Purpose and Summary

This proposed rule making removes an outdated mailing address for submitting challenges to administrative levy actions and replaces the address with references to electronic communication options and the Department’s website. Additionally, this rule making updates the location at which to purchase a drug tax stamp.

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 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 January 3, 2023. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

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

January 3, 2023
11 a.m.

Via video/conference call

Persons who wish to participate in the video/conference call should contact Nick Behlke by 8:30 a.m. on January 3, 2023, to facilitate an orderly hearing. A video link or 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 the Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 701—25.5(421) as follows:

701—25.5(421) Issues that may be raised.

REVENUE DEPARTMENT[701](cont'd)

25.5(1) The issues raised by the challenging party, which are limited to a mistake of fact, may include but are not limited to:

1. a. The challenging party has the same name as the obligor but is not the correct person.
2. b. The challenging party does not have an interest in the account that is being seized.
3. c. The amount listed in the notice to the obligor is greater than the amount actually owed.

4. **25.5(2)** The written challenge must be sent by electronic means, including email or online as indicated on the department's notice, or mailed to: Centralized Collection Facility, P.O. Box 6128, Des Moines, Iowa 50309, the central collections unit at the address found on the department's website at tax.iowa.gov/mailling-addresses with adequate postage.

ITEM 2. Amend **701—Chapter 25**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 421.17 and 421.17A.

ITEM 3. Amend rule 701—262.2(453B) as follows:

701—262.2(453B) Sales of stamps. The director or the director's authorized representative shall offer for sale to members of the public, during normal business hours, stamps which are capable of being affixed to taxable substances. The stamps shall be sold at the Hoover State Office Building, ~~fourth floor~~ First Floor, Des Moines, Iowa, and at other locations as may be designated by the director.

The director shall offer for sale four different stamps: (1) a stamp for a substance consisting of or containing marijuana, (2) a stamp for taxable substances other than marijuana which are sold by weight, (3) a stamp for taxable substances other than marijuana which are not sold by weight, and (4) a stamp for each unprocessed marijuana plant. Each package or container which contains a taxable substance must have a stamp affixed to it. The stamps will be issued in denominations requested by the purchaser so long as the minimum purchase price for a single stamp purchase transaction is \$215 or more. In addition, the denomination of individual stamps cannot be less than the price for ten dosage units, multiples of ten dosage units, one whole gram, or multiples of one gram even if the stamp will be affixed to a package containing less than ten dosage units or multiples thereof, or only a portion of one gram or multiples thereof.

The director will accept payment for stamps in the form of cash, cashier's check, or money order. Payment may not be made by personal check.

The stamps are valid for a period of six months from the date of issuance, and the stamps shall contain a statement that the stamps expire after six months from the date of issue. A stamp is "unused" and expires if it has not been affixed to taxable substances within six months of the date of issue.

Stamps may be purchased in person or by mail. Persons (including dealers) purchasing stamps are not required to provide identification such as their name or address when purchasing stamps. Neither the director nor any employee of the department shall reveal any information obtained from a stamp purchaser, nor shall information obtained from a stamp purchaser in the course of purchasing stamps be used against the stamp purchaser in any criminal proceeding, unless the information is independently obtained, except in connection with a proceeding involving taxes due under this chapter from the stamp purchaser against whom a tax was assessed.

ARC 6747C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to the register of assessors and deputy assessors and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 103, "Examination and Certification of Assessors and Deputy Assessors," Iowa Administrative Code.

REVENUE DEPARTMENT[701](cont'd)

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 441.5 and 441.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 441.5 and 441.10.

Purpose and Summary

Iowa Code sections 441.5(7) and 441.10(3) require the Director of Revenue to maintain a register containing the names of all individuals who are eligible for appointment as assessor or deputy assessor, respectively. This proposed rule making allows the Department to more efficiently maintain the register by requiring that assessors and deputy assessors provide the Department with up-to-date contact information and by allowing the Department to remove deceased assessors or deputy assessors from the register. Additionally, this rule making reflects the Department's current practice of indicating on the register whether an assessor or deputy assessor has retired.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 3, 2023. Comments should be directed to:

Nick Behlke
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.336.9025
Email: nick.behlke@iowa.gov

Public Hearing

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

January 3, 2023
10 a.m.

Via video/conference call

REVENUE DEPARTMENT[701](cont'd)

Persons who wish to participate in the video/conference call should contact Nick Behlke by 8:30 a.m. on January 3, 2023, to facilitate an orderly hearing. A video link or 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 the Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making action is proposed:

Amend rule 701—103.12(441) as follows:

701—103.12(441) Register of eligible candidates.

103.12(1) Assessor and deputy assessor register.

a. Following the administration and grading of an examination for assessor or deputy assessor, the director shall establish updated registers containing the names, in alphabetical order, and addresses of all persons eligible for appointment. The registers shall not contain test scores, but the scores shall be given to the city or county conference board upon request. Eligible candidates shall remain on the register for two years following the date of certification by the director after which time the person must successfully retake the examination to be placed on the register. However, assessors and deputy assessors with six years of consecutive service shall be placed on the register ~~permanently~~ without further testing being required. "Consecutive service" means service in which there was not more than 30 days' break in service. Assessor and deputy assessor service cannot be combined to meet the six-year consecutive service requirement. Assessors and deputy assessors are responsible for maintaining current contact information with the department, including mailing address, email address, and telephone number.

b. In maintaining the register, the department shall indicate which assessors and deputy assessors have retired from the profession. An assessor or deputy assessor may request to no longer be indicated as retired on the register.

c. Deceased assessors and deputy assessors shall be removed from the register.

103.12(2) Continuing education requirements. Assessors and deputy assessors must complete the continuing education requirements provided in Iowa Code sections 441.5 and 441.10 to be reappointed to their present position or appointed to the same position in a different assessing jurisdiction. This provision does not apply to persons not presently serving as an assessor or deputy assessor. It shall be the duty of the conference board in the case of assessor appointments and the duty of the assessor in the case of deputy assessor appointments to receive written verification from the director of continuing education requirement compliance. An assessor or deputy assessor appointed as such without having complied with continuing education requirements shall be removed from office on order of the director. No continuing education requirements need be met for an assessor to be appointed a deputy assessor nor for a deputy assessor to be appointed an assessor.

This rule is intended to implement Iowa Code sections 441.5 and 441.10.

ARC 6746C**REVENUE DEPARTMENT[701]****Notice of Intended Action****Proposing rule making related to pass-through entity composite returns and providing an opportunity for public comment**

The Revenue Department hereby proposes to amend Chapter 302, “Determination of Net Income,” Chapter 304, “Adjustments to Computed Tax and Tax Credits,” Chapter 307, “Withholding,” and Chapter 404, “Composite Returns”; adopt new Chapter 405, “Composite Returns for Tax Years Beginning on or After January 1, 2022”; and amend Chapter 501, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” Chapter 601, “Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits,” and Chapter 700, “Fiduciary Income Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 421.14, 422.16B and 422.68.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 608.

Purpose and Summary

The purpose of this proposed rule making is to implement the pass-through entity composite return requirements enacted in 2021 Iowa Acts, Senate File 608, division II. That legislation repealed the provisions of Iowa law that required a pass-through entity (partnership, S corporation, estate, or trust) to withhold and remit income tax on a nonresident individual’s distributive Iowa-source income from the pass-through entity and that allowed a pass-through entity to elect to file an Iowa composite return on behalf of its nonresident individual members, and replaced them with a mandatory Iowa composite return filing and tax payment requirement that applies to all nonresident members of the pass-through entity. A composite return is a return that reports the Iowa-source income of nonresident members as one group and pays Iowa income or franchise tax related to that Iowa-source income. These changes take effect for tax years beginning on or after January 1, 2022.

In general, under Iowa Code section 422.16B, a pass-through entity with nonresident members is required to file an annual Iowa composite return and pay Iowa income or franchise tax on behalf of its nonresident members related to their Iowa-source income from the pass-through entity. Nonresident members receive a refundable Iowa tax credit equal to the Iowa income or franchise tax paid on their behalf, which they may claim on their own Iowa tax returns. Nonresident members who are individuals are relieved of the requirement to file an Iowa tax return if the pass-through entity is their only Iowa-source income. Certain pass-through entities are exempt under Iowa Code section 422.16B or these proposed amendments from the requirement to file a composite return, or remit composite return tax on behalf of one or more nonresident members, or both. This rule making includes the following:

- New Chapter 405 governs the new composite return requirements, including filing requirements, return and tax payment due dates, amended returns and refund limitations, nonresident member determinations, filing and tax payment exclusions for certain pass-through entities, tax payment exclusions for certain nonresident members, permissible elections out of the tax payment requirements, calculation of composite return tax, tax credits for composite tax paid on behalf of nonresident members, Iowa tax return filing requirements for nonresident members included on a composite return, and composite returns for nonresidents who are not members of a pass-through entity.
- New rule 701—404.10(422) addresses the nonapplication of the current composite return rules (Chapter 404) to tax years beginning on or after January 1, 2022, and certain other transition issues.

REVENUE DEPARTMENT[701](cont'd)

- Amendments to rules 701—304.44(422), 701—501.12(422), and 701—601.2(422), which dictate the order in which tax credits must be claimed to account for new composite tax credits available to nonresident members.
- Amendments to the Department's withholding rules in Chapter 307 to account for the repeal of nonresident withholding requirements on pass-through entity income. This proposed rule making also contains other technical amendments to Chapter 307 unrelated to the composite return requirements that are intended to remove superfluous rule language, correct federal law citations, and correct internal cross-references to other Iowa administrative rules.
- Amendments to the Department's fiduciary income tax rules in Chapter 700 to strike references to the now-repealed nonresident withholding requirements and replace them with language pertaining to the new composite return requirements. These amendments in part address the personal liability of a personal representative or trustee who fails to comply with the composite return requirements and the impact that the new composite return requirements have on the Department's issuance of an income tax certificate of acquittance.
- Amendments to subrule 302.46(2) relating to the filing of composite returns by nonresident members of professional athletic teams to clarify that the rule applies to composite returns filed under previous Iowa law for tax years beginning prior to January 1, 2022.

Fiscal Impact

This rule making has no known fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement. The final Fiscal Note for 2021 Iowa Acts, Senate File 608, found that division II had no potential direct impact on State revenues or expenditures.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 13, 2023. Comments should be directed to:

Michael Mertens
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.587.0458
Email: michael.mertens@iowa.gov

Public Hearing

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

January 13, 2023
10 to 11 a.m.

Via video/conference call

REVENUE DEPARTMENT[701](cont'd)

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.

Persons who wish to participate in the video/conference call should contact Michael Mertens before 4:30 p.m. on January 12, 2023, to facilitate an orderly hearing. A video link or 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 the Department and advise of specific needs.

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend subrule 302.46(2) as follows:

302.46(2) *Filing composite Iowa returns for nonresident members of professional athletic teams.* ~~Professional~~ For tax years beginning prior to January 1, 2022, professional athletic teams may file composite Iowa returns under 701—Chapter 404 on behalf of team members who are nonresidents of Iowa and who have compensation that is taxable to Iowa from duty days in Iowa for the athletic team. However, the athletic team may include on the composite return only those team members who are nonresidents of Iowa and who have no ~~Iowa-source~~ Iowa-source incomes other than the incomes from duty days in Iowa for the team. The athletic team may exclude from the composite return any team member who is a nonresident of Iowa and whose income from duty days in Iowa is less than \$1,000. ~~See rule 701—48.1(422) about filing Iowa composite returns.~~ Information on filing composite returns for tax years beginning on or after January 1, 2022, for nonresident members of professional athletic teams can be found in rule 701—405.9(422).

ITEM 2. Amend subrule 304.44(1) as follows:

304.44(1) *Sequencing of credit deductions.* The credits against computed tax set forth in Iowa Code sections 422.5, 422.8, 422.10 through 422.12C, 422.12N, and 422.110 shall be claimed in the following sequence:

a. to *ao*. No change.

ap. Estimated payments, payment with vouchers, composite tax credits, and withholding tax.

ITEM 3. Amend subrule 307.4(1), introductory paragraph, as follows:

307.4(1) *General rules.* Payers of Iowa income to nonresidents are required to withhold Iowa income tax and to remit the tax to the department on all payments of Iowa income to nonresidents ~~except payments of wages to nonresidents engaged in film production or television production described in subrule 46.4(5); income payments for agricultural commodities or products described in subrule 46.4(6); deferred compensation payments, pension, and annuity payments attributable to personal services in Iowa by nonresidents described in subrule 46.4(7); and partnership distributions from certain publicly traded partnerships described in subrule 46.4(8) as otherwise described in this rule.~~ Withholding agents should use the following methods and rates in withholding for nonresidents:

ITEM 4. Amend subrule 307.4(2) as follows:

307.4(2) *Income of nonresidents subject to withholding.* Listed below are various types of income paid to nonresidents which are subject to withholding tax. The list is for illustrative purposes only and is not deemed to be all-inclusive.

REVENUE DEPARTMENT[701](cont'd)

1. a. Personal service, including salaries, wages, commissions and fees for personal service wholly performed within this state and such portions of similar income of nonresident traveling salespersons or agents as may be derived from services rendered in this state.

2. b. Rents and royalties from real or personal property located within this state.

3. c. Interest or dividends derived from securities or investments within this state, when such interests or dividends constitute income of any business, trade, profession or occupation carried on within this state and subject to taxation.

4. d. Income derived from any business of a temporary nature carried on within this state by a nonresident, such as contracts for construction and similar contracts.

5. ~~The distributive share of a nonresident beneficiary of an estate or trust, limited, however, to the portion thereof subject to Iowa income tax in the hands of the nonresident.~~

6. e. Income derived from sources within this state by attorneys, physicians, engineers, accountants, and similar sources as compensation for services rendered to clients in this state.

7. f. Compensation received by nonresident actors, singers, performers, entertainers, and wrestlers for performances in this state. See subrule 46.4(5) 307.4(5) for an exception to this rule.

8. ~~Income received by a nonresident partner or shareholder of a partnership or S corporation doing business in Iowa. See subrule 46.4(8) for the exemption from withholding for partnership distributions from certain publicly traded partnerships.~~

9. g. The Iowa gross income of a nonresident who is employed and receiving compensation for services shall include compensation for personal services which are rendered within this state. Compensation for personal services rendered by a nonresident wholly without the state is excluded from gross income of the nonresident even though the payment of such compensation may be made by a resident individual, partnership or corporation.

10. h. The gross income from commissions earned by a nonresident traveling salesperson, agent or other employee for services performed or sales made whose compensation depends directly on volume of business transacted by the nonresident, includes that proportion of the total compensation received which the volume of business or sales by the employee within this state bears to the total volume of business or sales within and without the state.

11. i. Payments made to landlords by agents, including elevator operators, for grain or other commodities which have been received by the landlord as rent constitute taxable income of the landlord when sold by the landlord. ~~See subrule 46.4(6) for~~ Subrule 307.5(6) contains information about the exemption from withholding on incomes paid to nonresidents for the sale of agricultural commodities or products.

12. j. Wages paid to nonresidents of Iowa who earn the compensation from regularly assigned duties in Iowa and one or more other states for a railway company or for a motor carrier are not taxable to Iowa. Pursuant to the ~~Amtrak Reauthorization and Improvement Act of 1990~~ 49 U.S.C. Section 11502, the nonresidents in this situation are subject only to the income tax laws of their states of residence. Thus, when an Iowa resident performs regularly assigned duties in two or more states for a railroad or a motor carrier, the only state income tax that should be withheld from the wages paid for these duties is Iowa income tax.

13. k. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa and one or more states for an airline company. In accordance with ~~Public Law 103-272 enacted by Congress~~ 49 U.S.C. Section 40116, airline employees who are nonresidents of Iowa are subject only to the income tax laws of their states of residence or the state in which they perform 50 percent or more of their duties.

14. l. Wages paid to nonresidents of Iowa who earn compensation from regularly assigned duties in Iowa for a merchant marine company. In accordance with ~~Public Law 106-489 enacted by Congress~~ 46 U.S.C. Section 11108, interstate waterway workers who are nonresidents of Iowa are subject only to the income tax laws of their states of residence.

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ITEM 5. Rescind subrule 307.4(8) and adopt the following **new** subrule in lieu thereof:

307.4(8) Exemption from withholding of a nonresident's distributive share of income from a pass-through entity. For tax years beginning on or after January 1, 2022, a partnership, S corporation, estate, or trust is not required to withhold state income tax on a nonresident member's distributive share of Iowa-source income from the pass-through entity. Instead, pass-through entities are subject to the composite return requirements in 701—Chapter 405.

ITEM 6. Amend **701—Chapter 404**, title, as follows:

COMPOSITE RETURNS FOR TAX YEARS BEGINNING PRIOR TO JANUARY 1, 2022

ITEM 7. Adopt the following **new** rule 701—404.10(422):

701—404.10(422) Repeal—transition rule.

404.10(1) In general. Except as otherwise provided in subrule 404.10(2), this chapter has no application to any tax year of partners, members, shareholders, beneficiaries, or employees that begins on or after January 1, 2022. The department's administrative rules on composite returns for any tax year of a partnership, limited liability company, S corporation, estate, or trust that begins on or after January 1, 2022, are located in 701—Chapter 405.

404.10(2) Special rule for fiscal year filers in tax year 2021. For the tax year of a partnership, limited liability company, S corporation, estate, or trust that begins in calendar year 2021 and ends in calendar year 2022, the entity may elect or be required to file a Form IA 1040C and pay tax under this chapter for income from that tax year that is reportable by nonresident partners, members, shareholders, or beneficiaries for their tax year beginning during calendar year 2022.

EXAMPLE: Partnership P is a fiscal year filer with a tax year that runs from July 1 to June 30. The majority of Partnership P's partners are individuals who file on a calendar-year basis, thus P is required to file the Form IA 1040C on a calendar-year basis. Partnership P may elect or be required to file a Form IA 1040C to report the Iowa-source income earned by the eligible nonresident partners during Partnership P's 2021 tax year that began on July 1, 2021, and ended on June 30, 2022.

This rule is intended to implement 2021 Iowa Acts, Senate File 608, division II.

ITEM 8. Adopt the following **new** 701—Chapter 405:

CHAPTER 405

COMPOSITE RETURNS FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 2022

701—405.1(422) Composite returns. For tax years beginning on or after January 1, 2022, a pass-through entity with one or more nonresident members for any period of time during the tax year shall file a composite return using the Iowa composite return (IA PTE-C) and pay Iowa income or franchise tax on behalf of all of its nonresident members, unless an exception in rule 701—405.5(422) applies. The IA 1040C, used to file composite returns under the former composite return law in tax years beginning before January 1, 2022, has been discontinued for tax years beginning on or after that date, except as provided in 701—subrule 404.10(2). Rules related to the former composite return law are located in 701—Chapter 404.

This rule is intended to implement Iowa Code section 422.16B.

701—405.2(422) Definitions. Unless otherwise indicated in this rule or required by the context, all words and phrases used in this chapter that are defined under Iowa Code section 422.16B shall have the same meaning as provided to them under that Iowa Code section. For the purposes of this chapter:

“*Composite return*” means the IA PTE-C Iowa composite return, which reports information about the Iowa-source income or other amounts credited or paid to each nonresident member of the pass-through entity, the amount of composite return tax due on behalf of each nonresident member of the pass-through entity, and such other information as the department may require.

“*Composite return tax*” means the Iowa income tax or franchise tax due by a pass-through entity on behalf of the pass-through entity's nonresident members.

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“*Department*” means the department of revenue.

“*GovConnectIowa*” means the e-services portal of the department.

“*Tax year*” means the tax year of the pass-through entity filing the composite return.

This rule is intended to implement Iowa Code section 422.16B.

701—405.3(422) Filing and payment for pass-through entities.

405.3(1) Filing requirement. A pass-through entity that is required to file an Iowa partnership return (IA 1065), Iowa income tax return for S corporations (IA 1120S), or Iowa fiduciary return (IA 1041) and that has one or more nonresident members for any period of time during the tax year is required to file a composite return unless it meets the conditions for an exception outlined in subrule 405.5(1).

a. A pass-through entity with nonresident members must file a composite return and pay composite return tax on behalf of all nonresident members, except for the nonresident members the pass-through entity can demonstrate are exempt from the composite return requirement pursuant to subrule 405.5(2) or that have elected out of the composite return requirement pursuant to rule 701—405.6(422).

b. A pass-through entity must report all of its nonresident members, including nonresident members who are exempt from or who elect out of the composite return requirement, even though the pass-through entity is not required to pay composite return tax on behalf of those nonresident members. If all nonresident members are exempt from or elect out of the composite return requirement, the pass-through entity shall file a composite return reporting required information about all of its nonresident members and showing no composite return tax due.

c. Any pass-through entity required to file its Iowa partnership return (IA 1065), Iowa income tax return for S corporations (IA 1120S), or Iowa fiduciary return (IA 1041) for a tax year in an electronic format under Iowa Code section 422.14, 422.15, or 422.36 shall also be required to file its composite return for that tax year in an electronic format. Rule 701—8.7(422) contains more information about mandatory electronic filing requirements.

d. The composite return may be filed electronically by way of the Internal Revenue Service Modernized e-File (MeF) program, also known as federal/state electronic filing; mailed to Income Tax Return Processing, Iowa Department of Revenue, P.O. Box 9187, Des Moines, Iowa 50306-9187; or hand-delivered to the department’s office in the Hoover State Office Building, First Floor, 1305 East Walnut Street, Des Moines, Iowa 50319.

405.3(2) Due date of composite return—automatic extensions. The composite return is due and must be filed on or before the due date of the pass-through entity’s Iowa partnership return (IA 1065), Iowa income tax return for S corporations (IA 1120S), or fiduciary return (IA 1041), whichever is applicable. If the pass-through entity qualifies for and receives an extension to file its Iowa income tax return, it will also automatically qualify for and receive the same period of extension to file its composite return. Any composite return filed after the due date, including extensions, may be subject to the penalty for failure to timely file a return pursuant to rules 701—10.6(421) and 701—10.9(421) and subject to other applicable penalties provided by law.

405.3(3) Due date of composite return tax. The composite return tax is due by the original due date of the pass-through entity’s Iowa partnership return (IA 1065), Iowa income tax return for S corporations (IA 1120S), or fiduciary return (IA 1041), whichever is applicable. The filing extension described in subrule 405.3(2) does not extend the due date for paying the composite return tax. Any unpaid composite return tax is subject to interest computed from the original due date of the pass-through entity’s applicable income tax return. The pass-through entity may also be subject to the penalty for failure to timely pay tax due pursuant to rule 701—10.6(421) and other applicable penalties provided by law.

405.3(4) Payment of estimated composite return tax not required. Pass-through entities are not required under Iowa law to make payments of estimated composite return tax. However, if a pass-through entity desires to make an estimated or other advance payment of composite return tax liability, the pass-through entity may do so electronically on GovConnectIowa or by sending a check with a voucher available on GovConnectIowa.

405.3(5) Amended composite returns—refund limitation.

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a. If the pass-through entity becomes aware that information was erroneously stated on the composite return, including but not limited to information about the nonresident members, Iowa-source income, or composite return tax due, the pass-through entity shall file an amended composite return, except as otherwise provided in this subrule.

b. If after filing an initial composite return for a tax year the pass-through entity is required to amend its Iowa income tax return in a manner that increases the amount of composite return tax due, or the pass-through entity discovers that nonresident members were erroneously excluded from the composite return, the pass-through entity shall file an amended composite return and pay the additional composite return tax that is due. Any additional composite return tax payment determined to be due after the filing of the initial composite return shall be made by the pass-through entity. An amended composite return and additional composite return tax payment is not required if the return changes are from a centralized partnership audit or an Iowa pass-through entity audit and included in a pass-through entity's election to pay on its owners' behalf pursuant to Iowa Code section 422.25A(5).

c. If after filing an initial composite return for a tax year the pass-through entity is required to amend its Iowa income tax return in a manner that only decreases the amount of Iowa-source income reportable to one or more nonresident owners, the pass-through entity is not required to file an amended composite return. A pass-through entity may not request a refund of composite return tax paid on behalf of a nonresident member after the initial composite tax return has been filed. When composite return tax is paid by a pass-through entity on behalf of a nonresident member, it is then treated as paid by the nonresident member and any refund of an overpayment may only be requested by the nonresident member on that nonresident member's own income, franchise, or composite return.

This rule is intended to implement Iowa Code section 422.16B.

701—405.4(422) Nonresident member determination. The following rules shall apply in determining who is a nonresident member under Iowa Code section 422.16B(1) "a":

405.4(1) A partner, shareholder, or beneficiary of a pass-through entity shall be considered a nonresident member if any of the following were true for the entire period of time that person was a partner, shareholder, or beneficiary during that pass-through entity's tax year:

a. The person is an individual and was a nonresident of Iowa.

b. The person is a business entity and did not have a commercial domicile in Iowa as defined in Iowa Code section 422.32.

c. The person is an estate or trust and did not have a situs in Iowa.

405.4(2) Any partner, shareholder, or beneficiary whose state of residence, commercial domicile, or situs, as applicable, is not known by the pass-through entity shall be considered a nonresident member.

This rule is intended to implement Iowa Code section 422.16B.

701—405.5(422) Exceptions to the composite return requirement.

405.5(1) Filing and payment exceptions for pass-through entities. Pass-through entities are not required to file a composite return or pay composite return tax if the entity meets any of the following conditions for the tax year:

a. The pass-through entity is a publicly traded partnership that meets the requirements of Iowa Code section 422.16B(5) "a."

b. The pass-through entity is engaged in disaster or emergency-related work during a disaster response period and is not required to file a composite return as provided in Iowa Code section 29C.24.

c. The pass-through entity is prohibited under federal or state law from making distributions to members. This exception applies only for years in which distributions are prohibited under federal or state law. Contractual restrictions on distributions, such as loan covenants or organization documents, do not qualify an entity for this exception.

d. None of the pass-through entity's nonresident members have a positive amount of Iowa-source income from the pass-through entity. This exception does not apply if any nonresident member has a positive amount of Iowa-source income from the pass-through entity, even if the nonresident member

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has elected out of the composite return pursuant to rule 701—405.6(422) and no composite return tax is due.

405.5(2) *Payment exceptions for nonresident members.* A pass-through entity is not required to pay composite return tax on behalf of a particular nonresident member if that nonresident member meets any of the following conditions for the tax year:

a. The nonresident member is a publicly traded partnership that meets the requirements of Iowa Code section 422.16B(5) “*a.*”

b. The nonresident member is exempt from Iowa income tax under Iowa Code section 422.34(2), unless the Iowa-source income of the tax-exempt entity is unrelated business income.

c. The nonresident member is an insurance company exempt from Iowa income tax under Iowa Code section 422.34(1) and instead subject to the insurance companies tax under Iowa Code section 432.1, 432.2, 432A.1, 518.18, or 518A.35.

d. The nonresident member and the pass-through entity complete and sign the Nonresident Member Composite Agreement form for the tax year as described in rule 701—405.6(422).

This rule is intended to implement Iowa Code section 422.16B.

701—405.6(422) Election out of the composite return tax requirement.

405.6(1) *In general.* A nonresident member may elect to be excluded from a pass-through entity’s composite return unless prohibited from doing so by the department under subrule 405.6(2). Electing out of the composite return only relieves the pass-through entity of the requirement to pay composite return tax on behalf of that nonresident member. It does not relieve the pass-through entity of the requirement to report that nonresident member on a composite return. For a nonresident member to be excluded from the composite return tax payment, both the nonresident member and the pass-through entity must complete and sign the Nonresident Member Composite Agreement, available on the department’s website. The Nonresident Member Composite Agreement must be completed and signed by all parties prior to the pass-through entity’s composite return due date, including extensions. The Nonresident Member Composite Agreement is only valid for the tax year for which it is executed. The nonresident member and the pass-through entity must complete and sign a separate Nonresident Member Composite Agreement for each tax year in which the nonresident member seeks to be excluded from the composite return.

405.6(2) *Circumstances in which a pass-through entity or nonresident member may not elect out of the composite return requirement.*

a. The ability to elect out of the composite return is conditionally granted by the department based on the nonresident member’s promise to comply with the filing and payment requirements listed in subrule 405.6(3) and the pass-through entity’s compliance with Iowa tax law.

b. If information available to the department indicates that the pass-through entity has not complied with Iowa tax law, including but not limited to properly reporting or sourcing its income or other tax items within and without Iowa, the department may revoke the pass-through entity’s ability to enter into a Nonresident Member Composite Agreement with its nonresident members.

c. If information available to the department indicates that a nonresident member has not complied with the filing and payment requirements listed in subrule 405.6(3), the department may revoke the pass-through entity’s ability to enter into a Nonresident Member Composite Agreement with that particular nonresident member.

d. The pass-through entity will be notified in writing of a revocation under paragraph 405.6(2) “*b*” or “*c*,” and such revocation will take effect 30 days following the date on the revocation letter. The revocation will not affect any Nonresident Member Composite Agreement entered into prior to the effective date of the revocation. After such revocation, a pass-through entity will not be allowed to enter into a Nonresident Member Composite Agreement with the affected nonresident members without written permission from the department.

405.6(3) *Filing and payment requirements for a nonresident member electing out of composite return requirement.* To elect out of the composite return requirement, a nonresident member must agree to all of the following in the Nonresident Member Composite Agreement:

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a. The nonresident member shall file an Iowa income or franchise tax return, unless such return is subject to a filing threshold and the nonresident member falls below that threshold and is not required to file.

b. The nonresident member shall timely pay all Iowa income or franchise tax related to the nonresident member's distributive share of Iowa-source income from the pass-through entity, including, if applicable, estimated tax payments and composite return tax payments.

c. The nonresident member shall acknowledge that the nonresident member is subject to personal jurisdiction in Iowa for the collection of Iowa income or franchise tax liability.

405.6(4) *Retention of records.* The signed Nonresident Member Composite Agreement is not required to be submitted with the composite return but shall be retained by the pass-through entity and submitted to the department upon request.

405.6(5) *Liability for unpaid tax, penalty, and interest for a nonresident member electing out of the composite return requirement.* A pass-through entity that enters into a Nonresident Member Composite Agreement with a nonresident member will remain jointly and severally liable for any unpaid composite return tax, penalty, and interest attributable to the electing nonresident member's distributive share of Iowa-source income from the pass-through entity. If the department determines that a nonresident member has failed to comply with the tax filing and payment requirements agreed to in subrule 405.6(3), it may collect the unpaid composite return tax, penalty, and interest directly from the pass-through entity.

This rule is intended to implement Iowa Code section 422.16B.

701—405.7(422) Determination of composite return tax.

405.7(1) Each nonresident member's distributive share of Iowa-source income from the pass-through entity shall be determined at the entity level in accordance with the Iowa statutes, administrative rules, and tax forms applicable to the pass-through entity's tax type, including provisions related to the allocation and apportionment of income.

405.7(2) A partner's Iowa-source income includes the amount of nonseparately stated income, separately stated income including guaranteed payments, and separately stated deductions, attributable to Iowa as properly reported on the partner's IA 1065 schedule K-1. A shareholder's Iowa-source income includes the amount of nonseparately stated income, separately stated income, and separately stated deductions, attributable to Iowa as properly reported on the shareholder's IA 1120S schedule K-1. A beneficiary's Iowa-source income includes the amount of distributable net income attributable to Iowa as properly reported on the beneficiary's IA 1041 schedule K-1.

405.7(3) No net operating loss or other owner-level tax attribute modification, or reduction for Iowa tax credits, is allowed in the computation of each nonresident member's Iowa-source income for purposes of the composite return. To claim an owner-level tax attribute modification, or an Iowa tax credit, the nonresident member must file the nonresident member's own Iowa tax return.

405.7(4) If a nonresident member's Iowa-source income is a loss, that loss cannot be netted against the Iowa-source income of another nonresident member.

405.7(5) The composite return tax for each nonresident member is computed by multiplying the nonresident member's Iowa-source income, if positive, by the highest tax rate applicable to that nonresident member. C corporations, or tax-exempt entities with unrelated business income, will be taxed at the highest corporate tax rate in Iowa Code section 422.33. Financial institutions will be taxed at the franchise tax rate in Iowa Code section 422.63. Individuals, estates, trusts, partnerships, and S corporations (except those subject to the franchise tax) will be taxed at the highest individual tax rate in Iowa Code section 422.5A. The sum of the composite return tax for all nonresident members is the pass-through entity's total composite return tax liability.

This rule is intended to implement Iowa Code section 422.16B.

701—405.8(422) Filing for nonresident members—composite tax credits.

405.8(1) *In general.* Nonresident members included on a pass-through entity's composite return may still have an Iowa return filing requirement. The nonresident member shall receive a refundable

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composite tax credit for the composite return tax paid on the nonresident member's behalf by the pass-through entity. The nonresident member's composite tax credit shall be claimed for the same tax year that the nonresident member's Iowa-source income from the pass-through entity is required to be reported on the nonresident member's Iowa income or franchise return.

405.8(2) *Nonresident member—partnership.* A nonresident member that is a partnership is required to file the Iowa partnership return (IA 1065). The partnership is also subject to the composite return requirements if it has one or more nonresident members for any period of time during the tax year or if it desires to claim a composite tax credit it received from another pass-through entity. The partnership shall claim its composite tax credit on its composite return. Subrule 405.8(4) contains information related to financial institutions organized as pass-through entities.

405.8(3) *Nonresident member—S corporation.* A nonresident member that is an S corporation is required to file the Iowa income tax return for S corporations (IA 1120S). The S corporation is also subject to the composite return requirements if it has one or more nonresident members for any period of time during the tax year or if it desires to claim a composite tax credit it received from another pass-through entity. The S corporation shall claim its composite tax credit on its composite return. Subrule 405.8(4) contains information related to financial institutions organized as pass-through entities.

405.8(4) *Nonresident member—financial institution.*

a. A nonresident member that is a financial institution as defined in Iowa Code section 422.61 is required to file the Iowa franchise return for financial institutions (IA 1120F). The financial institution shall claim its composite tax credit on its Iowa franchise return for financial institutions (IA 1120F).

b. If the nonresident financial institution is organized as a pass-through entity, it is also required to file the Iowa partnership return (IA 1065) or the Iowa income tax return for S corporations (IA 1120S), as applicable, and is subject to the composite return requirements if it has one or more nonresident members for any period of time during the tax year. In such instances, the financial institution may claim its composite tax credit on its Iowa franchise return for financial institutions (IA 1120F) or its composite return.

405.8(5) *Nonresident members—C corporation or tax-exempt entity.* A nonresident member that is a C corporation, or a tax-exempt entity with unrelated business income, is required to file the Iowa corporation income tax return (IA 1120). The entity shall claim its composite tax credit on its Iowa corporation income tax return (IA 1120).

405.8(6) *Nonresident member—estate or trust.* A nonresident member that is an estate or trust is required to file the Iowa fiduciary return (IA 1041) unless the estate's or trust's taxable income is below the Iowa return filing threshold in Iowa Code section 422.14. The estate or trust is also subject to the composite return requirement if its taxable income is above the Iowa return filing threshold in Iowa Code section 422.14 and if it has one or more nonresident members for any period of time during the tax year. The estate or trust may claim its composite tax credit on its Iowa fiduciary return (IA 1041) or its composite return.

405.8(7) *Nonresident members—individuals.* A nonresident member that is an individual is required to file the Iowa individual income tax return (IA 1040) unless the individual's income is below the Iowa return filing threshold in Iowa Code section 422.13, or unless the individual's distributive share of pass-through entity income included on one or more composite returns is the individual's only Iowa-source income. The individual shall claim the composite tax credit on the individual's Iowa individual income tax return (IA 1040).

This rule is intended to implement Iowa Code section 422.16B.

701—405.9(422) Composite returns for nonresidents who are not members of a pass-through entity.

405.9(1) The department may require that a composite return be filed under this chapter for nonresidents who are not members of a pass-through entity. The requirement may be set forth in this chapter for a category of persons or may be made directly in writing by the department to a specific person.

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405.9(2) If a person who is not required to file a composite return under this chapter desires to do so for a group of nonresidents, the person shall request and receive permission from the department before filing the composite return. In order to be a valid request, the request must be in writing and must include sufficient information about the person making the request, the nonresidents to be included in the composite return, and the reason for filing on a composite return basis to enable the department to evaluate the request and make a determination. Once a valid request is received, the department may request additional information. Written requests shall be mailed to Policy Bureau, Research and Policy Division, Iowa Department of Revenue, P.O. Box 14467, Des Moines, Iowa 50306-3467.

This rule is intended to implement Iowa Code section 422.16B.

ITEM 9. Amend subrule 501.12(1) as follows:

501.12(1) *Sequencing of credit deductions.* The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be claimed in the following sequence.

a. to ae. No change.

af. Estimated tax and payment payments, payments with vouchers, and composite tax credits.

ITEM 10. Amend subrule 601.24(1) as follows:

601.24(1) *Sequencing of credit deductions.* The credits against computed tax set forth in Iowa Code section 422.60 shall be claimed in the following sequence.

a. to p. No change.

q. Estimated tax and payment payments, payments with vouchers, and composite tax credits.

ITEM 11. Amend subrule 700.4(9) as follows:

700.4(9) *Duties of the taxpayer.*

a. to c. No change.

d. ~~*Withholding agent—general rule*~~ *Composite return requirement.* The personal representative of a decedent's estate and the trustee of a trust shall ~~withhold Iowa income tax from a distribution of Iowa taxable income to beneficiaries who are nonresidents of Iowa are subject to the composite return filing and tax payment obligations under Iowa Code section 422.16B and 701—Chapter 405 if the estate or trust has nonresident beneficiaries. This withholding requirement applies to both Iowa and non-Iowa situs estates and trusts. See Iowa Code subsection 422.16(12) and 701—subrule 46.4(2), item "5," for the duty to withhold. The amount of income tax to be withheld shall be computed either based on 5 percent of the taxable Iowa income distributed or according to tax tables provided by the department. See 701—subrule 46.3(3) for the required withholding form and return to be filed with the department.~~

e. ~~*Exception to the general rule.*~~ If a nonresident beneficiary of an estate or trust who is to receive a distribution of Iowa taxable income files with the department a nonresident declaration of estimated tax and pays the estimated tax on the income declared in full, 89.4(9) "d" does not apply to the amount of the income declared. A certificate of release from the duty to withhold will be issued to the withholding agent upon request. See Iowa Code sections 422.16(12) and 422.17 and 701—subrule 46.4(3) relating to the release certificate. In addition, an estimated payment of withholding can occur if a distribution is being made to a taxable beneficiary. An estimated payment of withholding should be based on 5 percent of the taxable Iowa income. It is the department's policy to allow estimated payments of withholding to be paid directly to the department.

f. ~~*Withholding not required.*~~ Withholding is not required from the distribution made by estates and trusts of Iowa taxable income to beneficiaries who are residents of Iowa.

g. ~~*e.*~~ *Beneficiary's share of income, deductions and credits.* After the final distribution of income for the taxable year, but prior to the date for filing a beneficiary's individual income tax return, the personal representative of an estate and the trustee of a trust shall furnish each beneficiary receiving a distribution from an estate or trust a written statement specifying the amount and types of income subject to Iowa tax and the kinds and amounts of the deductions and credits against the tax. A copy of the federal schedule K-1, Form 1041, adapted to reflect Iowa taxable income, may be substituted in lieu of the statement.

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~~*h. f.*~~ *Liability of a withholding agent personal representative and trustee.* A withholding agent is personal representative of a decedent's estate and the trustee of a trust shall be personally liable for the amount of the Iowa composite tax required to be withheld paid under Iowa Code subsection 422.16(12) section 422.16B and 701—Chapter 405 if the income tax liability of a nonresident beneficiary which is attributable to the distribution composite tax liability attributable to a nonresident beneficiary is not paid and, in addition, is personally liable for any penalty and interest due if the tax required to be withheld is not paid to the department within the time prescribed by law. See rules 701—44.1(422) to 701—44.4(422) for the application and computation of penalty and interest on income tax required to be withheld.

ITEM 12. Amend paragraph **700.8(7)“p”** as follows:

p. Nonresident aliens—sales of Iowa real estate. For sales and exchanges occurring after June 18, 1980, ~~nonresident~~ Nonresident aliens and estates and trusts with a situs outside the United States must include the gain from the sale or exchange of Iowa real estate as taxable income, even though the real estate was not effectively connected with a trade or business carried on in the United States. See Public Law 96-499. Any gain paid or distributed to a nonresident alien or an estate or trust with a situs outside the United States is subject to Iowa income tax withholding composite tax, unless the gain has been previously accumulated and any tax due paid. See 89.4(9)“d” Paragraph 700.4(9)“d” and 701—subrule 46.4(2), item “5,” for the duty to withhold Iowa income tax from 701—Chapter 405 contain more information on the requirement to pay Iowa composite tax on distributions to nonresident beneficiaries and individuals.

ITEM 13. Amend subrule 700.10(3) as follows:

700.10(3) Requirements for a certificate of acquittance. The issuance of an income tax certificate of acquittance is dependent upon full payment of the income tax liability of the estate or trust for the period of administration. This includes the obligation to ~~withhold income~~ pay composite return tax on distributions to ~~of nonresident beneficiaries~~ beneficiaries' Iowa-source income from the estate or trust. In the case of an estate, the income tax liability of the decedent for both for prior years and the year of death must be paid to the extent of the probate property subject to the jurisdiction of the court. The probate property must be applied to the payment of the decedent's income tax liability according to the order of payment of an estate's debts and charges specified in Iowa Code section 633.425. If the probate property of the estate is insufficient to pay the decedent's income tax obligation in full, the department, in lieu of a certificate of acquittance, shall issue a certificate stating that the probate property is insufficient to pay the decedent's income tax liability and that the department does not object to the closure of the estate. In the event the decedent's income tax obligation is not paid in full, the closure of the decedent's estate does not release any other person who is liable to pay the decedent's income tax obligation.

ARC 6749C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to the Iowa byways program and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 132, “Iowa Byways Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 306D.4 and 307.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 306D.

TRANSPORTATION DEPARTMENT[761](cont'd)

Purpose and Summary

This proposed rule making makes various updates within Chapter 132 to clarify the purpose of the Iowa Byways program so that prospective byway applicants will better understand the program's intent prior to seeking designation.

The defined evaluation process is proposed to be modified from a formal review process to a stakeholder review and Department evaluation to provide for more flexibility for representatives of existing byways and other stakeholders to participate in the process in order to leverage their expertise in reviewing proposed new routes. This proposed change includes removal of the definition of "advisory council" and the addition of the definition of "stakeholder."

The Department's and roadway jurisdiction's responsibilities for sign replacement costs are proposed to be clarified for signs, materials, and labor.

The proposed amendments also remove a formal four-year application cycle and move to a discretionary solicitation so that the Department is not administratively burdened and potential applicants meeting the purpose of the program may not need to wait four years to apply.

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 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 January 3, 2023. Comments should be directed to:

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

Public Hearing

If requested, a public hearing to hear oral presentations will be held on January 5, 2023, via conference call at 9 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 3, 2023, 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 and advise of specific needs.

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

TRANSPORTATION DEPARTMENT[761](cont'd)

Review by Administrative Rules Review Committee

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

The following rule-making actions are proposed:

ITEM 1. Amend rule 761—132.1(306D) as follows:

761—132.1(306D) Purpose, overview and information.

132.1(1) Purpose. The purpose of the Iowa Byways program is to designate and support qualifying Iowa roads as byways on the basis of scenic byway, heritage byway, or a combination of scenic and heritage byway qualities. These designations are intended ~~both~~ to preserve the state's scenic, natural, and historic resources; ~~and~~ to support economic development through travel and tourism; to highlight distinctive experiences; and to maintain the integrity of the Iowa Byways program.

132.1(2) Overview. Under the Iowa Byways program, proposed routes are identified via an application process. The department inventories ~~and evaluates~~ the proposed routes. ~~The advisory council recommends the routes to be designated by the department and consults with program stakeholders before evaluating those routes for designation.~~ The department provides identifying signs for the designated routes. Routes designated as an Iowa Byway are part of Iowa's scenic byway program and are therefore subject to the prohibition set forth in 23 U.S.C. Section 131(s).

132.1(3) Information and forms. Information, instructions and application forms may be obtained from the ~~Office of Systems Planning Bureau~~, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at (515)239-1664; or through the department's website at www.iowadot.gov.

ITEM 2. Rescind the definition of "Advisory council" in rule **761—132.2(306D)**.

ITEM 3. Adopt the following new definition of "Stakeholder" in rule **761—132.2(306D)**:

"*Stakeholder*" means a group, state agency, local jurisdiction or organization with a vested interest in the Iowa Byways program or that may be impacted by the designation of a route. Examples may include but are not limited to an adjacent scenic, natural or historic resource or other tourism attraction; other designated Iowa Byways; private associations related to economic development or outdoor advertising; and organizations charged with the marketing of the state, regions or localities for tourism purposes.

ITEM 4. Amend subrule 132.3(5) as follows:

132.3(5) The initial installation of signs identifying an Iowa Byway including the accompanying posts and hardware necessary for installation shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for the inventory; and maintenance; ~~and reinstallation~~ of signs provided by the department following the initial installation. The department will provide replacement signs for those that are damaged or missing and will be responsible for reinstallation on primary roads. The roadway jurisdiction will be responsible for reinstallation on secondary roads and city streets.

ITEM 5. Amend rule 761—132.4(306D) as follows:

761—132.4(306D) Application and approval process.

132.4(1) Program cycle. ~~The Iowa Byways program shall operate on a four-year cycle, with applications due by October 1, 2020, and every fourth year thereafter department may periodically announce a solicitation of applications for designation as demand and interest requires. Field inventories, evaluation, and rating of proposed routes will follow with precede the designation of any new routes completed by the next application deadline.~~

132.4(2) Application. Application to designate a route as an Iowa Byway or to propose an extension or loop to an existing route shall be on a form provided by the department and shall be received by

TRANSPORTATION DEPARTMENT[761](cont'd)

the department by the stated application deadline included in the solicitation. The application must be accompanied by a formal resolution described in subrule 132.3(4). Applications must provide some discussion of the planned administration and governance of the proposed Iowa Byway as well as how the byway will be marketed to visitors.

~~132.4(3) Initial review.~~ Applications shall be reviewed by the ~~advisory council to acquaint the council members with the proposed routes and to allow the members an opportunity to provide the department with information from their areas of expertise.~~ Such input may provide details related to Program stakeholders will be consulted to gather information on the existence and quality of scenic, archaeological, cultural, historic, natural, and recreational resources along a proposed route; the proposed route's contribution to a diversity of experiences along designated routes; and the overall impact of the proposed route on the program's integrity.

~~132.4(4) and 132.4(5)~~ No change.

~~132.4(6) Selection.~~ The advisory council shall review the evaluations and recommend routes to be designated as Iowa Byways based on this information and any other information the council may have obtained regarding the routes.

~~132.4(7)~~ 132.4(6) Designation. The department shall review the evaluations and will consider designating routes recommended by the advisory council as Iowa Byways based on this information.

~~132.4(8)~~ 132.4(7) Signing. Upon the designation of Iowa Byways, the department will proceed with the initial design and installation of signage identifying new Iowa Byways.

ARC 6750C

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to the RISE program and providing an opportunity for public comment

The Transportation Department hereby proposes to amend Chapter 163, "RISE Program," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 315.10.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 315.

Purpose and Summary

This proposed rule making adds a definition for "traffic impact analysis," which is often a necessary part of a project transportation justification required at the time of application, and clarifies the Department's annual reporting requirements to state that the report will indicate the amount and percentage of funds committed during the previous year, which is consistent with current accounting practice. The proposed rule making explains that only the city portion of uncommitted Revitalize Iowa's Sound Economy (RISE) funds is carried over from year to year, whereas uncommitted county RISE funds are credited to the Secondary Road Fund annually.

The proposed amendments make modifications to the eligible costs associated with principal and interest payments to explicitly exclude any administrative or legal expenses and to clarify that the term of a bond associated with a RISE project may not exceed the useful life of the roadway consistent with Iowa Code section 315.4A. New eligible costs are proposed to be added to include certain modifications to railroad facility adjustments required by construction of a RISE roadway, which require an executed agreement between the railroad and the roadway jurisdiction.

TRANSPORTATION DEPARTMENT[761](cont'd)

Application requirements are proposed to be added consistent with current practice to require that economic development efforts, zoning, platting, subdivision boundaries, corporate limits, and future development plans be identified in narratives or through the submittal of maps. A detailed description of what is required for a transportation justification is also proposed to be added, noting that a traffic impact analysis may be required by the Department.

The proposed amendments also add a requirement in subrule 163.11(2) for applications to summarize nonroadway factors, such as utility provision, fire protection or permits, for consistency with subrule 163.10(6); move to subrules 163.10(2) and 163.11(2) the requirement that any business that is assisted by the project and acquires or merges with an Iowa corporation within three years of the RISE application make a good-faith effort to hire existing workers of the merged or acquired corporation; and add that a formal resolution is required to state that land provided access by the improvement will be developed consistent with the purpose of the RISE program.

Finally, the application format is proposed to be changed for consistency with current Department practice in order to allow more flexibility rather than require hard-copy submission of the application and the identification of job creation or other development contingencies and procedures for compliance in the project agreement.

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 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 January 3, 2023. Comments should be directed to:

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

Public Hearing

If requested, a public hearing to hear oral presentations will be held on January 5, 2023, via conference call at 10:00 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on January 3, 2023, 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 the Department and advise of specific needs.

TRANSPORTATION DEPARTMENT[761](cont'd)

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. Adopt the following new definition of "Traffic impact analysis" in rule **761—163.1(315)**:
"Traffic impact analysis" means an analysis identifying system and immediate impacts associated with a proposed development to allow an assessment of the existing and future highway system's safety, performance, maintenance, and capacity needs and includes all necessary information as required by the department.

ITEM 2. Amend rule 761—163.2(315) as follows:

761—163.2(315) Information and forms. Information, instructions and application forms may be obtained from the ~~Office of~~ Systems Planning Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at (515)239-1664; or through the department's website at www.iowadot.gov.

ITEM 3. Amend subrule 163.4(3) as follows:

163.4(3) The department shall annually prepare a written report indicating the amount and percentage of funds ~~expended~~ committed during the previous year on primary roads, secondary roads, city streets, state park roads and county conservation parkways.

ITEM 4. Amend paragraph **163.5(2)"g"** as follows:

g. Carryover of funds. The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted city funds may be carried over to the next programming cycle or used for immediate opportunity projects. On June 30 of each year, all uncommitted county funds shall be credited to the secondary road fund.

ITEM 5. Amend subrule 163.8(1) as follows:

163.8(1) Eligible activities. Project activities or costs eligible for RISE funding, and which may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects, include only the following:

a. to h. No change.

i. County and city bond principal and interest payments associated only with RISE projects. No financing expenses incurred prior to funding commitment shall be eligible, and no administrative or legal expenses may be reimbursed. The bond term may not exceed the expected useful life of the roadway.

j. to l. No change.

m. Costs of modifications to railroad facilities required to construct the RISE roadway, including but not limited to construction, hiring flaggers, and engineering performed by the railroad or the railroad's contractor, that are consistent with an executed agreement between the railroad and the roadway jurisdiction.

ITEM 6. Amend subrule 163.10(2) as follows:

163.10(2) Contents of applications. Each application for an immediate opportunity project must contain the following:

a. General information, including ~~applicant~~ the applicant's name, contact person, mailing address, telephone number, local economic development area and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

TRANSPORTATION DEPARTMENT[761](cont'd)

b. and c. No change.

d. A preliminary project concept statement for the roadway project, including ~~a location map,~~ maps showing site characteristics, such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. In consultation with the department, a traffic impact analysis may be required to supplement the transportation justification.

e. No change.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution shall state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.3(315). The resolution must also certify that the project meets the threshold criteria cited in paragraph 163.10(6)“a.” 163.10(6)“a” and that any business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company.

g. No change.

ITEM 7. Amend subrule 163.10(3) as follows:

163.10(3) *Submission of applications.* ~~An original and one copy of each completed application~~ Applications shall be submitted to on a form provided by the department. Applications may be submitted at any time.

Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

ITEM 8. Amend subrule 163.11(2) as follows:

163.11(2) *Contents of applications.* Each application for a local development project must contain the following:

a. General information, including ~~applicant~~ the applicant's name, contact person, mailing address, telephone number, local economic development program and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

b. and c. No change.

d. A preliminary project concept statement for the roadway project, including ~~a location map,~~ maps showing site characteristics such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. In consultation with the department, a traffic impact analysis may be required to supplement the transportation justification.

TRANSPORTATION DEPARTMENT[761](cont'd)

e. No change.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution shall state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.3(315). The resolution must also certify that any business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company.

g. A summary showing that necessary arrangements have been made for nonroadway factors (e.g., zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed economic development activity.

ITEM 9. Amend subrule 163.11(3), introductory paragraph, as follows:

163.11(3) *Submission of applications.* ~~An original and one copy of each completed application~~ Applications shall be submitted to on a form provided by the department.

ITEM 10. Amend subrule 163.12(1) as follows:

163.12(1) *Agreement.* After a funding commitment has been made for a project, the department shall enter into a project agreement with the applicant. The agreement shall delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, and documentation. The agreement shall ~~require that a business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company~~ identify any additional requirements for the project relating to specific jobs to be created or retained and land identified as being required to be developed consistent with rule 761—163.3(315). Procedures for documenting compliance with these requirements will also be identified in the agreement. The agreement shall require the applicant to comply with all local, state, and federal laws, and rules and regulations that may apply to the project.

ARC 6735C

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency****Rule making related to home- and community-based services**

The Human Services Department hereby amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver 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

During the 2022 Legislative Session, 2022 Iowa Acts, House File 2578, appropriated funds to increase specific home- and community-based services (HCBS) waiver and HCBS habilitation provider reimbursement rates over the rates in effect June 30, 2022, as follows:

- Increase rates for behavioral health intervention services (BHIS) by 20.6 percent.
- Increase rates for applied behavior analysis (ABA) by 8.9 percent.
- Increase rates for home health agency providers located in rural areas. These are the providers covered under the low utilization payment adjustment (LUPA) methodology, whose rates may vary depending on type of provider. LUPA is a standard per-visit payment for episodes of care with a low number of visits. Currently, LUPA occurs when there are four or fewer visits during a 60-day episode of care.

As part of the American Rescue Plan Act (ARPA), Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent. The following changes are made as a result of the rate changes:

- Increase the reimbursement rates and upper rate limits for providers of HCBS waiver and habilitation services beginning July 1, 2022, by 4.25 percent over the rates that are in effect on June 30, 2022.
- Increase the monthly caps on the total monthly cost of HCBS waiver and habilitation services.
- Increase the monthly cap on HCBS support employment and intellectual disabilities (ID) waiver respite services.
- Increase the annual or lifetime limitations for home and vehicle modifications and specialized medical equipment.

These amendments also correct the following technical errors:

- Remove the individual placement and support supported employment (IPS SE) from the HCBS waiver supported employment and add it under the HCBS habilitation supported employment services. IPS SE is only provided to individuals enrolled in the 1915(i) habilitation program.
- Align the total monthly cap on supported employment services under the HCBS habilitation program with the HCBS waiver employment service monthly cap, as is the current practice.

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

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary or impractical because emergency adoption was approved by the Administrative Rules Review Committee. The Centers for Medicare and Medicaid Services (CMS) have approved the rate

HUMAN SERVICES DEPARTMENT[441](cont'd)

increases for HCBS waiver providers beginning the fourth quarter of federal fiscal year 2022 (July 1, 2022) and ongoing. Emergency adoption subject to review by the Administrative Rules Review Committee was also authorized in part by 2022 Iowa Acts, House File 2578, due to a July 1, 2022, effective date provided in the legislation. This rule making also provides a benefit with increased provider rates. In compliance with Iowa Code section 17A.4(3)“a” and section 32 of House File 2578, the Administrative Rules Review Committee at its November 15, 2022, meeting reviewed the Department’s determination and this rule filing and approved the emergency adoption.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a) and (b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on November 15, 2022, because increased provider rates provide a benefit to providers and the public they serve. Emergency adoption subject to review by the Administrative Rules Review Committee was also authorized in part by 2022 Iowa Acts, House File 2578, due to a July 1, 2022, effective date provided in the legislation.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on November 10, 2022.

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 6736C** to allow for public comment.

Fiscal Impact

During the 2022 Legislative Session, House File 2578 appropriated funds to increase home health agency rates for providers operating in rural areas and to increase BHIS and ABA provider rates. As part of the ARPA, Section 9817, HCBS implementation plan, the Department has designated \$14.6 million in state funds to increase HCBS waiver and habilitation reimbursement rates by 4.25 percent.

Jobs Impact

These amendments raise the rate of reimbursement for rural home health agencies, behavioral health intervention and ABA. These amendments also raise the rate of reimbursement for HCBS waiver and HCBS habilitation service providers. This rate change will directly benefit HCBS members accessing consumer directed attendant care (CDAC) and consumer choices option (CCO) by enabling them to offer an increased wage to potential employees, which may increase the recruitment and retention rates of CDAC workers and CCO employees. This increase could assist HCBS providers with recruitment and retention efforts, which may provide improved quality of services for HCBS members. These amendments may have a positive influence on private-sector jobs and employment opportunities in Iowa.

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

HUMAN SERVICES DEPARTMENT[441](cont'd)

meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on November 15, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **78.27(10)“f”(2)** as follows:

(2) In absence of a monthly cap on the cost of waiver services, the total monthly cost of all supported employment services may not exceed ~~\$3,167.89~~ \$3,302.53 per month.

ITEM 2. Amend paragraph **78.34(9)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 3. Amend paragraph **78.41(2)“i”** as follows:

i. Payment for respite services shall not exceed ~~\$7,595~~ \$7,917.79 per the member’s waiver year.

ITEM 4. Amend paragraph **78.43(5)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 5. Amend paragraph **78.43(8)“c”** as follows:

c. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service.

ITEM 6. Amend paragraph **78.46(2)“g”** as follows:

g. Service payment shall be made to the enrolled home or vehicle modification provider. If applicable, payment will be forwarded to the subcontracting agency by the enrolled home or vehicle modification provider following completion of the approved modifications. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to certified providers upon satisfactory completion of the service.

ITEM 7. Amend paragraph **78.46(4)“c”** as follows:

c. Payment of up to ~~\$6,592.66~~ \$6,872.85 per year may be made to enrolled specialized medical equipment providers upon satisfactory receipt of the service.

ITEM 8. Adopt the following new provider category in subrule **79.1(2)**:

Applied behavior analysis	Fee schedule	Fee schedule in effect 7/1/22.
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ITEM 9. Amend subrule **79.1(2)**, provider categories of “Behavioral health intervention,” “HCBS waiver service providers,” “Home- and community-based habilitation services” and “Home health agencies,” as follows:

Behavioral health intervention	Fee schedule	Fee schedule in effect 7/1/21 <u>7/1/22</u> .
HCBS waiver service providers, including: 1. Adult day care	For AIDS/HIV, brain injury, elderly, and health and disability waivers: Fee schedule	Effective 7/1/21 <u>7/1/22</u> , for AIDS/HIV, brain injury, elderly, and health and disability waivers: Provider’s rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute, half-day, full-day, or extended-day rate. If no 6/30/21 <u>6/30/22</u> rate: Veterans

HUMAN SERVICES DEPARTMENT[441](cont'd)

		Administration contract rate or \$1.52 <u>\$1.58</u> per 15-minute unit, \$24.30 <u>\$25.33</u> per half day, \$48.38 <u>\$50.44</u> per full day, or \$72.55 <u>\$75.63</u> per extended day if no Veterans Administration contract.
	For intellectual disability waiver: Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)	Effective 7/1/21 <u>7/1/22</u> , for intellectual disability waiver: The provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute or half-day rate. If no 6/30/21 <u>6/30/22</u> rate, \$2.03 <u>\$2.12</u> per 15-minute unit or \$32.38 <u>\$33.76</u> 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).
2. Emergency response system:		
Personal response system	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: Initial one-time fee: \$53.89 <u>\$56.18</u> . Ongoing monthly fee: \$41.94 <u>\$43.69</u> .
Portable locator system	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: Initial one-time fee: \$53.89 <u>\$56.18</u> . Ongoing monthly fee: \$41.94 <u>\$43.69</u> .
3. Home health aides	Fee schedule	For AIDS/HIV, elderly, and health and disability waivers effective 7/1/21 <u>7/1/22</u> : Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> .
		For intellectual disability waiver effective 7/1/21 <u>7/1/22</u> : Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to an hourly rate.
4. Homemakers	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$5.38 <u>\$5.61</u> per 15-minute unit.

HUMAN SERVICES DEPARTMENT[441](cont'd)

5. Nursing care	Fee schedule	For AIDS/HIV, health and disability, elderly and intellectual disability waiver effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> . If no 6/30/21 <u>6/30/22</u> rate: \$91.11 <u>\$94.98</u> per visit.
6. Respite care when provided by:		
Home health agency:		
Specialized respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate, not to exceed \$326.28 <u>\$340.15</u> per day.
Basic individual respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: Lesser of maximum Medicare rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate, or maximum Medicaid rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate, not to exceed \$326.28 <u>\$340.15</u> per day.
Group respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$3.61 <u>\$3.76</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.
Home care agency:		
Specialized respite	Fee schedule	Effective 7/1/21 <u>7/1/22</u> , provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$9.28 <u>\$9.67</u> per 15-minute unit, not to exceed \$326.28 <u>\$340.15</u> per day.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Basic individual respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$4.95 \$5.16 per 15-minute unit, not to exceed \$326.28 \$340.15 per day.
Group respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed \$326.28 \$340.15 per day.
Nonfacility care:		
Specialized respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$9.28 \$9.67 per 15-minute unit, not to exceed \$326.28 \$340.15 per day.
Basic individual respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$4.95 \$5.16 per 15-minute unit, not to exceed \$326.28 \$340.15 per day.
Group respite	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed \$326.28 \$340.15 per day.
Facility care:		
Hospital or nursing facility providing skilled care	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed the facility's daily Medicaid rate for skilled nursing level of care.
Nursing facility	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed the facility's daily Medicaid rate.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Camps	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed \$326.28 \$340.15 per day.
Adult day care	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed rate for regular adult day care services.
Intermediate care facility for persons with an intellectual disability	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed the facility's daily Medicaid rate.
Residential care facilities for persons with an intellectual disability	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed contractual daily rate.
Foster group care	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed daily rate for child welfare services.
Child care facilities	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit, not to exceed contractual daily rate.
7. Chore service	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$4.19 \$4.37 per 15-minute unit.
8. Home-delivered meals	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%. If no 6/30/21 6/30/22 rate: \$8.39 \$8.75 per meal. Maximum of 14 meals per week.

HUMAN SERVICES DEPARTMENT[441](cont'd)

9. Home and vehicle modification	Fee schedule. See 79.1(17)	For elderly waiver effective 7/1/21 7/1/22: <u>\$1,098.78</u> <u>\$1,145.48</u> lifetime maximum. For intellectual disability waiver effective 7/1/21 7/1/22: <u>\$5,493.88</u> <u>\$5,727.37</u> lifetime maximum. For brain injury, health and disability, and physical disability waivers effective 7/1/21 7/1/22: <u>\$6,592.66</u> <u>\$6,872.85</u> per year.
10. Mental health outreach providers	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%. If no 6/30/21 6/30/22 rate: On-site Medicaid reimbursement rate for center or provider. Maximum of 1,440 units per year.
11. Transportation	Fee schedule	Fee schedule in effect 7/1/21 7/1/22.
12. Nutritional counseling	Fee schedule	Effective 7/1/21 7/1/22 for non-county contract: Provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: <u>\$9.07</u> <u>\$9.46</u> per 15-minute unit.
13. Assistive devices	Fee schedule. See 79.1(17)	Effective 7/1/21 7/1/22: <u>\$119.72</u> <u>\$124.81</u> per unit.
14. Senior companion	Fee schedule	Effective 7/1/21 7/1/22 for non-county contract: Provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: <u>\$1.96</u> <u>\$2.04</u> per 15-minute unit.
15. Consumer-directed attendant care provided by:		
Agency (other than an elderly waiver assisted living program)	Fee agreed upon by member and provider	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: <u>\$5.54</u> <u>\$5.78</u> per 15-minute unit, not to exceed <u>\$128.25</u> <u>\$133.70</u> per day.
Assisted living program (for elderly waiver only)	Fee agreed upon by member and provider	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: <u>\$5.54</u> <u>\$5.78</u> per 15-minute unit, not to exceed <u>\$128.25</u> <u>\$133.70</u> per day.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Individual	Fee agreed upon by member and provider	Effective 7/1/21 7/1/22, \$3.71 <u>\$3.87</u> per 15-minute unit, not to exceed \$86.32 <u>\$89.99</u> per day. When an individual who serves as a member's legal representative provides services to the member as allowed by 79.9(7) "b," the payment rate must be based on the skill level of the legal representative and may not exceed the median statewide reimbursement rate for the service unless the higher rate receives prior approval from the department.
16. Counseling:		
Individual	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$11.86 <u>\$12.36</u> per 15-minute unit.
Group	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> , converted to a 15-minute rate. If no 6/30/21 <u>6/30/22</u> rate: \$11.85 <u>\$12.35</u> per 15-minute unit. Rate is divided by the actual number of persons who comprise the group.
17. Case management	Fee schedule	For brain injury and elderly waivers effective 7/1/21, provider's rate: Fee schedule in effect 6/30/21 <u>6/30/22</u> plus 3.55% <u>4.25%</u> .
18. Supported community living	For brain injury waiver: Retrospectively limited prospective rates. See 79.1(15)	For brain injury waiver effective 7/1/21 7/1/22: \$9.61 <u>\$10.02</u> per 15-minute unit, not to exceed the maximum daily ICF/ID rate per day plus 7.477% <u>11.727%</u> .
	For intellectual disability waiver: Fee schedule for the member's acuity tier, determined pursuant to 79.1(30). Retrospectively limited prospective rate for SCL 15-minute unit. See 79.1(15)	For intellectual disability waiver effective 7/1/21 7/1/22: \$9.61 <u>\$10.02</u> per 15-minute unit. For daily service, 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).

HUMAN SERVICES DEPARTMENT[441](cont'd)

19. Supported employment:

~~Individual placement and support.~~ Fee schedule

Individual supported employment Fee schedule

~~Fee schedule in effect 7/1/21.~~

Fee schedule in effect ~~7/1/21~~ 7/1/22. Total monthly cost for all supported employment services not to exceed \$3,167.89 \$3,302.53 per month.

Long-term job coaching Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Total monthly cost for all supported employment services not to exceed \$3,167.89 \$3,302.53 per month.

Small-group supported employment (2 to 8 individuals) Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed \$3,167.89 \$3,302.53 per month.

20. Specialized medical equipment Fee schedule. See 79.1(17)

Effective ~~7/1/21~~ 7/1/22, \$6,592.66 \$6,872.85 per year.

21. Behavioral programming Fee schedule

Effective ~~7/1/21~~ 7/1/22, provider's rate in effect ~~6/30/21~~ 6/30/22 plus 3.55% 4.25%. If no ~~6/30/21~~ 6/30/22 rate: \$11.86 \$12.36 per 15 minutes.

22. Family counseling and training Fee schedule

Effective ~~7/1/21~~ 7/1/22, provider's rate in effect ~~6/30/21~~ 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no ~~6/30/21~~ 6/30/22 rate: \$11.85 \$12.35 per 15-minute unit.

23. Prevocational services, including career exploration Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22.

24. Interim medical monitoring and treatment:

Home health agency (provided by home health aide) Fee schedule

Effective ~~7/1/21~~ 7/1/22: Lesser of maximum Medicare rate in effect ~~6/30/21~~ 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate, or maximum Medicaid rate in effect ~~6/30/21~~ 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate.

Home health agency (provided by nurse) Fee schedule

Effective ~~7/1/21~~ 7/1/22: Lesser of maximum Medicare rate in effect ~~6/30/21~~ 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate, or maximum Medicaid rate in effect ~~6/30/21~~ 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Child development home or center	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.61 \$3.76 per 15-minute unit.
Supported community living provider	Retrospectively limited prospective rate. See 79.1(15)	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$9.61 \$10.02 per 15-minute unit, not to exceed the maximum ICF/ID rate per day plus 7.477% 11.727%.
25. Residential-based supported community living	Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)	Effective 7/1/21 7/1/22: 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).
26. Day habilitation	Fee schedule for the member's acuity tier, determined pursuant to 79.1(30)	Effective 7/1/21 7/1/22: Provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$3.63 \$3.78 per 15-minute unit. For daily service, 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).
27. Environmental modifications and adaptive devices	Fee schedule. See 79.1(17)	Effective 7/1/21 7/1/22, \$6,592.66 \$6,872.85 per year.
28. Family and community support services	Retrospectively limited prospective rates. See 79.1(15)	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$9.61 \$10.02 per 15-minute unit.
29. In-home family therapy	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%, converted to a 15-minute rate. If no 6/30/21 6/30/22 rate: \$25.73 \$26.82 per 15-minute unit.
30. Financial management services	Fee schedule	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%. If no 6/30/21 6/30/22 rate: \$71.42 \$74.46 per enrolled member per month.
31. Independent support broker	Rate negotiated by member	Effective 7/1/21 7/1/22, provider's rate in effect 6/30/21 6/30/22 plus 3.55% 4.25%. If no 6/30/21 6/30/22 rate: \$16.64 \$17.35 per hour.

HUMAN SERVICES DEPARTMENT[441](cont'd)

32. to 34. No change.

35. Assisted living on-call service providers (elderly waiver only)

Fee agreed upon by member and provider

~~\$27.04~~ \$28.16 per day.

Home- and community-based habilitation services:

1. Case management

Fee schedule. ~~See 79.1(24) "d"~~

Effective ~~7/1/21~~ 7/1/22: Fee schedule in effect ~~6/30/21~~ 6/30/22 plus ~~3.55%~~ 4.25%.

2. Home-based habilitation

~~See 79.1(24) "d"~~ Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22.

3. Day habilitation

~~See 79.1(24) "d"~~ Fee schedule

Effective ~~7/1/21~~ 7/1/22: ~~\$3.42~~ \$3.57 per 15-minute unit or ~~\$66.57~~ \$69.40 per day.

4. Prevocational habilitation
Career exploration

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22.

5. Supported employment:

Individual supported employment

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Total monthly cost for all supported employment services not to exceed ~~\$3,136.53~~ \$3,302.53 per month.

Long-term job coaching

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Total monthly cost for all supported employment services not to exceed ~~\$3,136.53~~ \$3,302.53 per month.

Small-group supported employment (2 to 8 individuals)

Fee schedule

Fee schedule in effect ~~7/1/21~~ 7/1/22. Maximum 160 units per week. Total monthly cost for all supported employment services not to exceed ~~\$3,136.53~~ \$3,302.53 per month.

Individual placement and support supported employment

Fee schedule

Fee schedule in effect 7/1/22. Total monthly cost for all supported employment services not to exceed \$3,302.53 per month.

Home health agencies

1. Skilled nursing, physical therapy, occupational therapy, speech therapy, home health aide, and medical social services; home health care for maternity patients and children

Fee schedule. See 79.1(26). For members living in a nursing facility, see 441—paragraph 81.6(11) "r"

Effective ~~7/1/21~~ 7/1/22: The Medicaid LUPA fee schedule rate published on the department's website.

2. and 3. No change.

ITEM 10. Amend paragraph **83.2(2)"b"** as follows:

b. Except as provided below, the total monthly cost of the health and disability waiver services, excluding the cost of home and vehicle modification services, shall not exceed the established aggregate monthly cost for level of care as follows:

Skilled level of care

Nursing level of care

ICF/ID

~~\$2,891.79~~ \$3,014.69

~~\$993.56~~ \$1,035.79

~~\$3,875.80~~ \$4,040.52

HUMAN SERVICES DEPARTMENT[441](cont'd)

For members enrolled in the health and disability waiver in accordance with subrule 83.2(1), when a member turns 21 years of age, the average monthly cost of services received through 441—subrule 78.9(10) (state plan private duty nursing or personal care services for persons aged 20 and under) shall be used to increase the monthly waiver budget in accordance with the following:

(1) to (5) No change.

ITEM 11. Amend paragraph **83.42(2)“b”** as follows:

b. The total monthly cost of the AIDS/HIV waiver services shall not exceed the established aggregate monthly cost for level of care. The monthly cost of AIDS/HIV waiver services cannot exceed the established limit of ~~\$1,943.43~~ \$2,026.03.

ITEM 12. Amend paragraph **83.102(2)“b”** as follows:

b. The total cost of physical disability waiver services, excluding the cost of home and vehicle modifications, shall not exceed ~~\$730.90~~ \$761.95 per month.

ITEM 13. Amend paragraph **83.122(6)“b”** as follows:

b. The total cost of children’s mental health waiver services needed to meet the member’s needs, excluding the cost of environmental modifications, adaptive devices and therapeutic resources, may not exceed ~~\$2,077.57~~ \$2,165.87 per month.

[Filed Emergency 11/15/22, effective 11/15/22]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6739C

INSURANCE DIVISION[191]

Adopted and Filed Emergency

Rule making related to pharmacy benefits managers

The Insurance Division hereby amends Chapter 59, “Pharmacy Benefits Managers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code chapters 510, 510B and 510C and 2022 Iowa Acts, House File 2384, section 22.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2384.

Purpose and Summary

These amendments update Chapter 59 to reflect changes implemented in 2022 Iowa Acts, House File 2384, regarding pharmacy benefits managers. Citations in the amendments to Iowa Code chapters 510, 510B, and 510C are to those chapters as amended by House File 2384.

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

Pursuant to Iowa Code section 17A.4(3), the Division finds that notice and public participation are unnecessary or impractical because of the authority granted in 2022 Iowa Acts, House File 2384, section 22. House File 2384 includes language for emergency rule making, which allows the updates to be established in a timely manner to accommodate the ordinary and customary start of the health coverage plan year beginning January 1.

INSURANCE DIVISION[191](cont'd)

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(a), the Division also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on January 1, 2023, because 2022 Iowa Acts, House File 2384, section 22, states: “The insurance division of the department of commerce may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph ‘b,’ to implement the provisions of this Act and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.”

Adoption of Rule Making

This rule making was adopted by Douglas Ommen, Iowa Insurance Commissioner, on November 10, 2022.

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 6740C** to allow for public comment.

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 Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule 191—59.1(510B,510C) as follows:

191—59.1(510B,510C) Purpose. The purpose of this chapter is to administer the provisions of Iowa Code chapters 510, 510B and 510C (~~2019 Iowa Acts, Senate File 563~~) relating to the regulation of pharmacy benefits managers.

ITEM 2. Amend rule 191—59.2(510B) as follows:

191—59.2(510B) Definitions. The terms defined in Iowa Code sections 510.11, ~~and 510B.1, and 510C.1~~ shall have the same meaning for the purposes of this chapter. The definitions contained in

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191—Chapter 58, “Third-Party Administrators,” and 191—Chapter 78, “Uniform Prescription Drug Information Card,” of the Iowa Administrative Code are incorporated by reference. As used in this chapter:

“*Complaint*” means a written communication from a pharmacy or the commissioner to a pharmacy benefits manager that makes an inquiry or expresses a grievance and includes, but is not limited to, the following:

1. A comment on, contest or appeal by a pharmacy, as permitted by Iowa Code section 510B.8(3) and rule 191—59.5(510B), of a pharmacy benefits manager’s maximum reimbursement amount rate or allowable cost, maximum reimbursement amount allowable cost list or other pricing methodology used to pay a pharmacy.

2. Any pharmacy’s appeal or request for an independent third-party review of an audit report pursuant to subrules 59.4(4) and 59.4(5).

3. Any request by a pharmacy for an independent third-party review of a termination or suspension decision pursuant to paragraph 59.6(3) “d.”

4. Any inquiries from the commissioner pursuant to subrule 59.8(3).

“*Day*” means a calendar day, unless otherwise defined or limited.

“*Maximum reimbursement amount*,” as defined in Iowa Code section 510B.1(6), includes but is not limited to any prices used by a pharmacy benefits manager for therapeutically, pharmaceutically equivalent multiple source prescription drugs such as maximum allowable cost, federal upper limit pricing, generic effective rate pricing, or any other pricing strategies used by the pharmacy benefits manager.

“*Paid*” means the later of either the day on which the payment is mailed by the pharmacy benefits manager or the day on which the electronic payment is processed by the pharmacy benefits manager’s bank.

“*Pharmacy*,” except as used in paragraph 59.4(1) “b,” means “pharmacy” as defined in Iowa Code section 155A.3 and includes “pharmacist,” as defined in Iowa Code section 155A.3, and a pharmacy services administrative organization while acting in its role as a representative of a pharmacist or pharmacy. For purposes of this definition, “pharmacy services administrative organization” means an entity that provides contracting services on behalf of pharmacies with payers and with pharmacy benefits managers, consolidated reimbursement services for pharmacies, and other business support for pharmacies.

ITEM 3. Amend rule 191—59.3(510B) as follows:

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) ~~Payments~~ A payment to the pharmacy for a clean claim is considered to be overdue and not timely if not paid within 20 or 30 days, whichever is applicable. If any a clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) ~~Pharmacy~~ A pharmacy benefits managers manager may demonstrate the date a claim is paid by a mail record or a bank statement.

59.3(4) For purposes of this rule, “clean claim” means a claim which is received by any pharmacy benefits manager for adjudication and which requires no further information, adjustment or alteration by the pharmacy or the covered individual in order to be processed and paid by the pharmacy benefits manager. A claim is a clean claim if it has no defect or impropriety, including any lack of substantiating documentation, or no particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this chapter. A clean claim includes a resubmitted claim with previously identified deficiencies corrected. Pursuant to Iowa Code section 510B.4 and paragraph

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59.4(1) “j,” a pharmacy benefits manager shall not retroactively reduce or increase reimbursement, through adjustment or reconciliation or any other means, of a clean claim paid to pharmacies.

ITEM 4. Amend rule 191—59.4(510B) as follows:

191—59.4(510B) Audits of pharmacies by pharmacy benefits managers.

59.4(1) An audit of pharmacy records by a pharmacy benefits manager shall be conducted in accordance with the following:

a. The pharmacy benefits manager conducting the initial on-site audit must provide the pharmacy written notice at least ~~one week~~ ten business days prior to conducting any audit;

b. Any audit which involves clinical or professional judgment must be conducted by or in consultation with a pharmacist ~~as defined in Iowa Code section 155A.3;~~

c. When a pharmacy benefits manager alleges an error in reimbursement has been made to a pharmacy, the pharmacy benefits manager shall provide the pharmacy sufficient documentation to determine the specific claims included in the alleged error;

d. A pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for prescription drugs or medicinal supplies, written or transmitted by any means of communication, for purposes of validating the pharmacy record with respect to orders or refills of a drug dispensed pursuant to a prescription;

e. Each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the pharmacy benefits manager;

f. The period covered by an audit may not exceed two years from the date on which the claim was submitted to or adjudicated by a managed care company, insurance company, third-party payor, or any pharmacy benefits manager that represents such entities;

g. Unless otherwise consented to by the pharmacy, an audit may not be initiated or scheduled during the first seven calendar days of any month due to the high volume of prescriptions filled during that time;

h. The preliminary audit report must be delivered to the pharmacy within 120 days after conclusion of the audit. A final written audit report shall be received by the pharmacy within six months of the preliminary audit report or final appeal, whichever is later;

i. A pharmacy shall be allowed at least 30 days following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit; and

j. If it is determined by the pharmacy benefits manager that an error in reimbursement to a pharmacy occurred, the following criteria apply:

(1) For each contract between the pharmacy benefits manager and the pharmacy existing on or after January 1, 2015, a pharmacy's usual and customary price for compounded medications is considered the reimbursable cost, unless the contract between the pharmacy benefits manager and the pharmacy specifically provides details for a pricing methodology for compounded medications.

(2) A finding of error in reimbursement must be based on the actual error in reimbursement and not be based on a projection of the number of patients served having a similar diagnosis or on a projection of the number of similar orders or refills for similar prescription drugs.

(3) Calculations of errors in reimbursement must not include dispensing fees unless: prescriptions were not actually dispensed, the prescriber denied authorizations, the prescriptions dispensed were medication errors by the pharmacy, or the amounts of the dispensing fees were incorrect.

(4) Any clerical or record-keeping error of the pharmacy, including but not limited to a typographical error, scrivener's error, or computer error, regarding a required document or record shall not be considered fraud by the pharmacy under paragraph 59.6(3) “a” or under a pharmacy's contract with the pharmacy benefits manager.

(5) In the case of an error that has no actual financial harm to the patient or ~~covered entity~~ third-party payor, the pharmacy benefits manager shall not assess a charge against the pharmacy.

(6) If a pharmacy has entered into a corrective action plan with a pharmacy benefits manager, and if the pharmacy fails to comply with the corrective action plan in a manner that results in overpayments being made by the pharmacy benefits manager to the pharmacy, the pharmacy benefits manager may

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recover the overpaid amounts. For purposes of this paragraph, “corrective action plan” means an agreement entered into by a pharmacy benefits manager and a pharmacy which is intended to promote accurate submission and payment of pharmacy claims.

(7) During the audit period, interest on any outstanding balance shall not accrue for the pharmacy benefits manager or the pharmacy. For purposes of this rule, the audit period begins with the notice of the audit and ends with a final determination of the audit report.

59.4(2) Notwithstanding Iowa Code section 510B.7 and any other provision in this rule, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating the recoupment or contractual ~~penalties for audits~~ penalty for an audit unless required by state or federal laws or regulations. The entity may not use the accounting practice of extrapolation in a manner more stringent than that required by state or federal laws or regulations.

59.4(3) Recoupment of any disputed funds shall occur only after final disposition of the audit, including the appeals process as set forth in subrules 59.4(4) and 59.4(5).

59.4(4) Each pharmacy benefits manager conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the pharmacy benefits manager. The pharmacy benefits manager shall conduct a review of the unfavorable preliminary audit report. The cost of the audit review shall be paid by the pharmacy benefits manager. If, following the review, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is unsubstantiated, the pharmacy benefits manager shall dismiss the unsubstantiated audit report or unsubstantiated portion of the audit report without the necessity of any further proceedings.

59.4(5) A pharmacy benefits manager shall establish a process for an independent third-party review of final audit findings. If, following the appeal of an audit report and upon conducting an audit review, the pharmacy benefits manager finds that an unfavorable audit report or any portion thereof is found to be substantiated, the pharmacy benefits manager shall notify the pharmacy in writing of its right to request an independent third-party review of the final audit findings and the process used to request such a review. If a pharmacy requests an independent third-party review of the final audit findings and the audit report is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy. If a pharmacy requests an independent third-party review of the final audit findings and the audit report is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager. If the reviewer finds partially in favor of both parties, the reviewer shall apportion the costs accordingly and each party will bear a portion of the costs of the review.

59.4(6) Rescinded IAB 4/27/16, effective 6/1/16.

59.4(7) Each pharmacy benefits manager conducting an audit shall, after completion of any review process, provide a copy of the final audit report to the ~~covered entity~~ third-party payor within ten business days of completing the report.

59.4(8) This rule shall not apply to any investigative audit which involves fraud, willful misrepresentation, abuse, or any other statutory provision which authorizes investigations relating to but not limited to insurance fraud.

ITEM 5. Rescind and reserve rule **191—59.5(510B)**.

ITEM 6. Amend rule 191—59.6(510B) as follows:

191—59.6(510B) Termination or suspension of contracts with pharmacies by pharmacy benefits managers.

59.6(1) A contract between a pharmacy benefits manager and a pharmacy shall include a provision describing notification procedures for contract termination. The contract shall require no less than 60 days' prior written notice by either party that wishes to terminate the contract.

59.6(2) Termination of a contract between a pharmacy benefits manager and a pharmacy or termination of a pharmacy from the network of the pharmacy benefits manager shall not release the pharmacy benefits manager from the obligation to make payments due to the pharmacy for contract-covered services rendered before the contract of the pharmacy was terminated.

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59.6(3) The following apply to ~~terminations or suspensions of contracts with pharmacies by a~~ termination or suspension of a contract with a pharmacy by a pharmacy benefits managers manager:

a. If the pharmacy benefits manager has evidence that the pharmacy has engaged in fraudulent conduct or poses a significant risk to patient care or safety, the pharmacy benefits manager may ~~immediately~~ suspend the pharmacy from further performance under the contract only if written notice of the suspension and reasoning therefor is provided to the pharmacy, the ~~covered entity~~ third-party payor and the commissioner.

b. A pharmacy benefits manager shall neither take action, nor imply or state that it may or will take action, to decrease reimbursement or to terminate, suspend, cancel or limit a pharmacy's participation in a pharmacy benefits manager's provider network solely or mainly because the pharmacy files a complaint, ~~as defined in rule 191—59.2(510B)~~, with any entity.

c. A pharmacy shall not be terminated ~~from the network~~ or suspended ~~by~~ from a network of a pharmacy benefits manager due to any disagreement with a decision of the pharmacy benefits manager to deny or limit benefits to ~~a covered individuals person~~ or due to any assistance provided to ~~a covered individuals person~~ by the pharmacy in obtaining reconsideration of a decision of the pharmacy benefits manager.

d. The pharmacy may request an independent third-party review of the final decision to terminate or suspend the contract between the pharmacy benefits manager and the pharmacy by filing with the pharmacy benefits manager a written request for an independent third-party review of the decision. This written request must be filed with the pharmacy benefits manager within 30 days of receipt of the final termination or suspension decision.

e. If a pharmacy requests an independent third-party review of a termination or suspension decision and the termination is found to be substantiated, the cost of the third-party review shall be paid by the pharmacy. If a pharmacy requests an independent third-party review of a termination or suspension decision and the termination is found to be unsubstantiated, the cost of the third-party review shall be paid by the pharmacy benefits manager.

ITEM 7. Rescind and reserve rule **191—59.7(510B)**.

ITEM 8. Amend rule 191—59.8(510B) as follows:

191—59.8(510B) Complaints.

59.8(1) *System to record complaints.* Each pharmacy benefits manager shall develop an internal system to record and report complaints. This system shall include but not be limited to the following information regarding each complaint:

a. The reason for the complaint and any factual documentation submitted by the complainant to support the complaint;

b. Contact name, address and telephone number of the pharmacy;

c. Prescription number;

d. Prescription reimbursement amount for any disputed claim;

e. Any disputed prescription claim payment date of fill;

f. ~~Covered entity~~ Third-party payor benefits certificate;

g. The justification for final determination and outcome of the complaint, including but not limited to the section and language of the contract or provider manual that was used in making the determination;

h. The name of any pharmacy services administrative organization, if known by the pharmacy benefits manager, with which the pharmacy or the pharmacy benefits manager has a contract and that is involved in the matter ~~of the complaint~~; and

i. For complaints related to a the maximum reimbursement amount allowable cost or other pricing methodology used to pay a pharmacy, documentation demonstrating compliance with subrule 59.5(1) and rule 191—59.7(510B) Iowa Code section 510B.8A as appropriate based on the nature of the complaint.

59.8(2) *Quarterly complaint summary.* A summary of all complaints received by the pharmacy benefits manager each calendar quarter shall be submitted to the commissioner, in a form and manner

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prescribed by the commissioner, within 30 days after the calendar quarter has ended. The summary shall include the following:

- a. Name, address, telephone number and ~~e-mail~~ email address for a contact person for the pharmacy benefits manager;
- b. Information related to any pharmacy's appeal or request for an independent third-party review of an audit report pursuant to subrules 59.4(4) and 59.4(5);
- c. Information related to any pharmacy's comment on or contest or appeal of a maximum ~~reimbursement rate or allowable cost~~, maximum ~~reimbursement amount~~ allowable cost list pursuant to ~~subrule 59.5(2) or other pricing methodology used to pay a pharmacy~~;
- d. Information related to any request by a pharmacy for and the outcome of an independent third-party review of a termination or suspension decision pursuant to paragraph 59.6(3) "d";
- e. A summary of the information listed in paragraph 59.8(1) "a," excluding documentation; and
- f. The information listed in paragraphs 59.8(1) "b," "c," "d," "e," and "g."

59.8(3) Confidentiality. The quarterly complaint summary shall be confidential pursuant to subrule 59.10(5).

59.8(4) *Inquiries and complaints from the commissioner.*

a. ~~Pharmacy A~~ a pharmacy benefits ~~managers~~ manager shall comply with Iowa Code section 507B.4A(1) in responding promptly to ~~inquiries~~ an inquiry from the commissioner, including ~~complaints~~ a complaint.

b. When responding to ~~inquiries and complaints~~ an inquiry or complaint from the commissioner, ~~a pharmacy benefits managers~~ a pharmacy benefits manager shall include the Food and Drug Administration National Drug Code number, the names of the manufacturers of the prescription drugs that are related to the inquiry, and the names of any pharmaceutical wholesalers, if:

- (1) The pharmacy benefits managers can determine that information from their records and other knowledge of the subject matter of the inquiry or complaint; or
- (2) The commissioner has provided enough information in the inquiry or complaint for the pharmacy benefits manager to identify such facts.

ITEM 9. Amend rule 191—59.9(510,510B) as follows:

191—59.9(510,510B) Duty to notify commissioner of fraud. A ~~covered entity~~ third-party payor that contracts with a pharmacy benefits manager to perform the ~~covered entity's~~ third-party payor's services shall require the pharmacy benefits manager to follow Iowa Code section 507E.6 in notifying the commissioner of any detection of fraud, including but not limited to prescription drug diversion activity. "Prescription drug diversion activity," for purposes of this rule, means the diversion of prescription drugs from legal and medically necessary uses to uses that are illegal and not medically authorized or necessary. A pharmacy benefits manager shall follow the fraud detection protocol developed by the ~~covered entity~~ third-party payor or shall allow the ~~covered entity~~ third-party payor to review and agree to the pharmacy benefits manager's protocol.

ITEM 10. Amend rule 191—59.10(507,510,510B) as follows:

191—59.10(507,510,510B) Commissioner examinations of pharmacy benefits managers.

59.10(1) *Cooperation of pharmacy benefits managers with the commissioner.* ~~Pharmacy A~~ a pharmacy benefits ~~managers~~ manager shall cooperate with the commissioner and comply with the commissioner's requests to aid with the commissioner's administration of Iowa Code chapters 507, 507B, 510, and 510B and this chapter, including cooperation and compliance with the commissioner in conducting ~~examinations~~ an examination of ~~a pharmacy benefits managers~~ a pharmacy benefits manager pursuant to Iowa Code chapter 507, and cooperation with the commissioner in conducting ~~investigations~~ an investigation pursuant to Iowa Code chapter 507B.

59.10(2) *Maintenance of records.* ~~Pharmacy A~~ a pharmacy benefits ~~managers~~ manager shall maintain ~~for five years~~ the records necessary to demonstrate to the commissioner compliance with this chapter ~~for the duration of any written agreement plus five years~~. ~~Pharmacy A~~ a pharmacy benefits ~~managers~~ manager

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shall provide the commissioner easy accessibility to records for examination, audit and inspection to verify compliance with this chapter, including but not limited to all contracts and provider manuals governing pharmacies and pharmacy networks.

59.10(3) *Disclosure of payments received by the pharmacy benefits manager.*

a. The commissioner may request, and a pharmacy benefits manager shall disclose to the commissioner, the amount of all payments received by the pharmacy benefits manager, and the nature, type, and amounts of all other revenues that the pharmacy benefits manager receives.

b. For purposes of this subrule, “payments received by the pharmacy benefits manager” means includes but is not limited to the aggregate amount of the following types of payments:

(1) A remuneration collected by the pharmacy benefits manager ~~which~~ that is allocated to a ~~covered entity~~ third-party payor;

(2) An administrative fee collected from the manufacturer in consideration of an administrative service provided by the pharmacy benefits manager to the manufacturer; and

~~(3) A pharmacy network fee; and~~

(4) ~~(3)~~ Any other fee or amount collected by the pharmacy benefits manager from a manufacturer or ~~labeler~~ other entity for a drug switch program, a formulary management program, a mail service pharmacy, educational support, data sales related to a covered ~~individual~~ person, or any other administrative function.

59.10(4) *Disclosure of pricing methodology for ~~maximum reimbursement amount~~ used to pay a pharmacy.*

a. The commissioner may require, and a pharmacy benefits manager shall submit to the commissioner, pursuant to Iowa Code section 510B.8 510B.8A, information related to the pharmacy benefits manager’s pricing methodology for ~~maximum reimbursement amounts~~ allowable cost or other pricing methodology used to pay a pharmacy.

b. ~~“Disclosure,” as used in Iowa Code section 510B.8(2), means the disclosure to the commissioner of the information the commissioner requires the pharmacy benefits manager to submit pursuant to Iowa Code section 510B.8(1).~~

c. ~~Iowa Code section 510B.8(2) “a” permits pharmacy benefits managers to establish maximum reimbursement amounts, as defined in Iowa Code section 510B.1(6), for all multiple-source prescription drugs prescribed after the expiration of any generic exclusivity period. Any pricing methodology used by a pharmacy benefits manager for determining the maximum reimbursement amounts for multiple-source prescription drugs including but not limited to those prescribed after the expiration of any generic exclusivity period shall be disclosed to the commissioner, if the commissioner requires pursuant to Iowa Code sections 510B.8(1) and 510B.8(2).~~

d. ~~Iowa Code section 510B.8(2) “b” permits pharmacy benefits managers to establish maximum reimbursement amounts, as defined in Iowa Code section 510B.1(6), for prescription drugs including, but not limited to, those with at least two or more A-rated therapeutically equivalent, multiple-source prescription drugs with a significant cost difference. Any pricing methodology used by a pharmacy benefits manager for determining the maximum reimbursement amounts for prescription drugs, including but not limited to those with at least two or more A-rated therapeutically equivalent, multiple-source prescription drugs with a significant cost difference, shall be disclosed to the commissioner, if the commissioner requires pursuant to Iowa Code sections 510B.8(1) and 510B.8(2).~~

e. ~~A pharmacy benefits manager using data sources for determining maximum reimbursement amounts must comply with this paragraph “e.”~~

(1) ~~The pricing methodology for maximum reimbursement amounts that pharmacy benefits managers shall disclose to the commissioner, if the commissioner requires pursuant to Iowa Code sections 510B.8(1) and 510B.8(2), shall, pursuant to Iowa Code section 510B.8(2) “a” and “b,” determine maximum reimbursement amounts by using comparable prescription drug prices that are:~~

1. ~~Obtained from multiple nationally recognized comprehensive data sources including, for example, the U.S. Center for Medicare and Medicaid Services’ national average drug acquisition cost, pharmaceutical wholesalers, prescription drug vendors, and pharmaceutical manufacturers for prescription drugs;~~

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2. ~~Nationally available; and~~

3. ~~Available for purchase by multiple pharmacies in the state of Iowa.~~

(2) ~~The sources listed in this paragraph and in Iowa Code section 510B.8(2) “e” as sources included among nationally recognized comprehensive data sources are examples of data sources that may be used by pharmacy benefits managers but are not the exclusive data sources that may be used and, if used, that must be disclosed when required by the commissioner.~~

59.10(5) Confidentiality. Information provided by a pharmacy benefits manager to the commissioner under this rule or under rule 191—59.8(510B) shall be deemed confidential under Iowa Code sections 22.7(2), 22.7(3), 22.7(6), 505.8(8), 505.8(9), 507.14, and ~~510B.3~~ 510B.10, as applicable.

ITEM 11. Amend rule 191—59.11(510B,510C) as follows:

191—59.11(510B,510C) Pharmacy benefits manager annual report.

59.11(1) Definitions. ~~In addition to the definitions set forth in rule 191—59.2(510B), the definitions of Iowa Code section 510C.1 (2019 Iowa Acts, Senate File 563, section 1) shall apply to this rule.~~

59.11(2) 59.11(1) Filing of annual report. In addition to submitting the third-party administrator annual report required under rule 191—58.11(510), each pharmacy benefits manager shall submit to the commissioner on or before February 15 of each year the annual report required by Iowa Code section 510C.2 (2019 Iowa Acts, Senate File 563, section 2) (PBM annual report). The pharmacy benefits manager shall follow the instructions and use the online submission form provided on the Iowa insurance division’s website (iid.iowa.gov) to file the PBM annual report.

59.11(3) 59.11(2) Verification. At least two officers of the pharmacy benefits manager shall certify in writing that they verified the accuracy of the PBM annual report.

59.11(4) 59.11(3) Electronic filing. Each pharmacy benefits manager shall submit the PBM annual report electronically as set forth in the instructions, unless otherwise specifically authorized by the commissioner.

59.11(5) 59.11(4) Public access. The commissioner shall publish on the Iowa insurance division’s website (iid.iowa.gov) the nonconfidential information received in the PBM annual report.

59.11(6) 59.11(5) Completeness of PBM annual report. All information required by the commissioner must be submitted before the PBM annual report shall be considered complete.

59.11(7) 59.11(6) Penalties. A pharmacy benefits manager that fails to timely submit to the commissioner a complete PBM annual report shall pay a late fee of \$100. If a pharmacy benefits manager fails to submit a complete PBM annual report by May 15, the pharmacy benefits manager shall be subject to penalties as set forth in rule 191—59.12(505,507,507B,510,510B,510C,514L).

ITEM 12. Amend rule 191—59.12(505,507,507B,510,510B,510C,514L) as follows:

191—59.12(505,507,507B,510,510B,510C,514L) Failure to comply. Failure to comply with the provisions of this chapter or with Iowa Code chapters 510, 510B and 510C (~~2019 Iowa Acts, Senate File 563~~), or failure to comply with 191—Chapters 58 and 78 or Iowa Code chapters 507 and 514L as they are relevant to the administration of this chapter ~~or of Iowa Code chapters 510, 510B and 510C (2019 Iowa Acts, Senate File 563)~~, shall subject the pharmacy benefits manager to the penalties of Iowa Code chapter 507B. No provision of these rules or the Iowa Code chapters mentioned herein may be waived or modified by contract.

ITEM 13. Amend **191—Chapter 59**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters 17A, 505, 507, 507B, 510, 510B, 510C (~~2019 Iowa Acts, Senate File 563~~) and 514L.

[Filed Emergency 11/14/22, effective 1/1/23]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6721C

IOWA FINANCE AUTHORITY[265]**Adopted and Filed Emergency After Notice****Rule making related to the updated 2023 9% qualified allocation plan**

The Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35.

Purpose and Summary

The updated 2023 9% Qualified Allocation Plan (9% QAP) sets forth the purposes of the plan, administrative information required for participation, threshold criteria, selection criteria, post-reservation requirements, the appeal process, and compliance monitoring. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the QAP are available upon request from the Authority and are available electronically on the Authority’s website at www.iowafinance.com. It is the Authority’s intent to incorporate the updated 2023 QAP by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6543C**.

The Authority did not receive comments on the Notice but did receive comments on the draft QAP. The draft QAP was posted on the Authority’s website for public comment beginning September 9, 2022, and remained open for public comment until October 6, 2022. Pursuant to Treasury regulations, a public hearing regarding the draft QAP was held on October 6, 2022. The Authority received comments asking the Authority to include a permanent supportive housing set aside, which has been included in prior years. Because the Authority has other incentives for permanent supportive housing in the draft QAP and because the permanent supportive housing set aside has not been utilized consistently, the Authority declined to make this change. The draft QAP allowed a higher project cap over previous years. Based on comments the Authority received, the project cap was reduced from the proposed amount, but is still an increased amount over previous years, to account for increased construction costs. Previous QAPs have included negative points for developers that missed deadlines. The draft QAP inserted positive points for making deadlines to provide an incentive to meet deadlines. The Authority received comments expressing concern that the positive scoring could disadvantage developers who do not have an active project. In response, the Authority removed the positive points from the draft QAP. A number of other commenters requested clarification of language in the draft. The Authority provided the clarification requested.

The dates of incorporation in this rule making have been revised to indicate the date that final changes to the 9% QAP were adopted by the Authority.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on

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November 10, 2022, because the rule confers a benefit on the public; specifically, the tax credits governed by Chapter 12 will likely increase the supply of affordable housing in the state.

Adoption of Rule Making

This rule making was adopted by the Authority on November 2, 2022.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit Program has had a substantial positive impact on employment in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

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, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 12.1(2) as follows:

12.1(2) Nine percent qualified allocation plan. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 2023 9% Qualified Allocation Plan ("9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits ~~awarded in 2020~~, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. ~~The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 First Amended 9% Qualified Allocation Plan ("first amended 9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2021, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP and the first amended 9% QAP are~~ is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~November 6, 2019~~ November 2, 2022. ~~The first amended 9% QAP does not include any amendments or editions created subsequent to February 3, 2021.~~

ITEM 2. Amend subrule 12.2(2) as follows:

12.2(2) 9% QAP. The 9% QAP ~~and the first amended 9% QAP~~ can be reviewed and copied in ~~their~~ its entirety on the authority's website at www.iowafinance.com. Copies of the 9% QAP ~~and the first amended 9% QAP~~, the application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's

IOWA FINANCE AUTHORITY[265](cont'd)

website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~November 6, 2019~~ November 2, 2022. ~~The first amended 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of February 3, 2021.~~ Additionally, both the 9% QAP and the first amended 9% QAP ~~incorporate~~ incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

[Filed Emergency After Notice 11/10/22, effective 11/10/22]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6732C

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Rule making related to E-15 access standard

The Agriculture and Land Stewardship Department hereby adopts new Chapter 86, “E-15 Access Standard,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in 2022 Iowa Acts, House File 2128.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2128.

Purpose and Summary

This rule making implements portions of 2022 Iowa Acts, House File 2128, regarding biofuels access, by establishing a new E-15 access standard chapter. This rule making does the following:

- Establishes definitions for the chapter.
- Establishes the procedure for ensuring compliance with the E-15 access standard.
- Outlines the process for fuel retailers to apply for Class 1 and Class 2 incompatible infrastructure waivers.
- Outlines the process for fuel retailers to apply for a small motor fuel retailer exemption.
- Specifies terminable events and requires fuel retailers to notify the Department when a terminable event is planned to occur, is occurring, or has occurred.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as **ARC 6516C**. No public comments were received.

Two changes from the Notice have been made.

1. The definition of “retail dealer” in rule 21—86.1(214A) was revised to cite the definition in Iowa Code section 455G.30 because the definition as proposed did not match the statute.
2. For a Class 1 incompatible infrastructure waiver, language was added in subrule 86.3(1) that states the Department may consult with the Department of Natural Resources to confirm information that is submitted on an application.

Adoption of Rule Making

This rule making was adopted by the Department on November 14, 2022.

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.

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

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 18, 2023.

The following rule-making action is adopted:

Adopt the following **new** 21—Chapter 86:

CHAPTER 86
E-15 ACCESS STANDARD

21—86.1(214A) Definitions.

“*Class 1 waiver*” means an incompatible infrastructure class 1 waiver order.

“*Class 2 waiver*” means an incompatible infrastructure class 2 waiver order.

“*Department*” means the department of agriculture and land stewardship.

“*Motor fuel storage and dispensing infrastructure*” means the same as defined in Iowa Code section 214A.1 as amended by 2022 Iowa Acts, House File 2128, section 14.

“*Retail dealer*” means the same as defined in Iowa Code section 455G.30 as enacted by 2022 Iowa Acts, House File 2128, section 25.

“*Retail motor fuel site*” means a geographic location in this state where a retail dealer sells and dispenses motor fuel on a retail basis.

“*Special status*” means a status assigned to a retail dealer who is ineligible for an incompatible infrastructure class 2 waiver order pursuant to Iowa Code section 214A.35(6) as enacted by 2022 Iowa Acts, House File 2128, section 5.

21—86.2(214A) E-15 access standard—retail dealer compliance.

86.2(1) A retail dealer shall advertise for sale and sell E-15 gasoline pursuant to Iowa Code section 214A.32 as enacted by 2022 Iowa Acts, House File 2128, section 2, unless any of the following apply:

- a. The retail dealer has been granted an incompatible infrastructure class 1 waiver order;
- b. The retail dealer has been granted an incompatible infrastructure class 2 waiver order;
- c. The retail dealer has been granted a small retail motor fuel site exemption.

86.2(2) Failure to comply with this rule may result in the suspension or revocation of the retail dealer's license.

21—86.3(214A) Incompatible infrastructure waivers.

86.3(1) *Class 1 waiver*: A retail dealer may apply for a class 1 waiver from the E-15 access standard by submitting a completed application to the department. The retail dealer shall include supporting documentation with the application regarding the retail motor fuel site's gasoline storage tanks including but not limited to the date of installation and the material that the tank is constructed from. The department may consult with the department of natural resources to confirm documentation submitted by the retail dealer.

86.3(2) *Class 2 waiver*: A retail dealer may apply for a class 2 waiver from the E-15 access standard by submitting a completed application to the department. The retail dealer shall include supporting documentation with the application including a completed inspection report prepared by a certified professional retail motor fuel site installer regarding the compatibility of the retail motor fuel site's motor fuel storage and dispensing infrastructure to store and dispense E-15 gasoline. The inspection

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

report shall include an inventory of all motor fuel storage and dispensing infrastructure at the retail motor fuel site. The inspection report shall also include the total estimated cost of improving the retail motor fuel site to comply with the alternative E-15 access standard by installing, replacing, or converting the gasoline storage and dispensing infrastructure located at the retail motor fuel site.

86.3(3) *Special status.* If it is determined that a retail dealer is ineligible for a class 2 waiver, the department shall assign the retail dealer special status and shall forward the designation to the renewable fuel infrastructure fund board and relevant department staff.

21—86.4(214A) Small retail motor fuel site exemption.

86.4(1) A retail dealer may apply for a small retail motor fuel site exemption from the E-15 access standard by submitting a completed application to the department. The retail dealer shall provide the department with the retail motor fuel site's total gasoline gallonage for calendar years 2020, 2021, and 2022 at the time of application. The department shall share the information provided by the retail dealer with the department of revenue to certify that the total gasoline gallonage is accurate. Once the gasoline gallonage is certified, the department shall grant an exemption if the average annual gasoline gallonage is less than 300,000 gallons for the qualifying phase.

86.4(2) The department will use the following methodology to determine the average annual gasoline gallonage:

a. For a retail dealer who has operated a retail motor fuel site for less than three years, all available sales data will be used to determine eligibility.

b. In cases where three full years of sales data are unavailable, the available sales data will be divided by the time frame the data represents to determine average annual sales.

21—86.5(214A) Terminable events.

86.5(1) A retail dealer shall notify the department when a terminable event is planned to occur, is occurring, or has occurred. Failure to notify the department may result in the termination of a class 1 waiver, class 2 waiver, or small retail motor fuel site exemption. The department may also suspend or revoke the retail dealer's license.

86.5(2) A terminable event includes:

a. The failure of a retail dealer to be licensed as required under Iowa Code section 214.2 to use a commercial weighing and measuring device when dispensing gasoline at the retail motor fuel site;

b. The cessation of the retail dealer's business of advertising for sale or selling gasoline at the retail motor fuel site;

c. The installation, replacement, or conversion of a gasoline storage tank located at the retail motor fuel site.

These rules are intended to implement Iowa Code chapter 214A and 2022 Iowa Acts, House File 2128.

[Filed 11/18/22, effective 1/18/23]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6729C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Rule making related to health care professional recruitment program

The College Student Aid Commission hereby amends Chapter 14, "Health Care Professional Recruitment Program," Iowa Administrative Code.

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2022 Iowa Acts, Senate File 2383.

Purpose and Summary

This rule making implements amendments enacted by 2022 Iowa Acts, Senate File 2383. Senate File 2383 adds registered nurses and advanced registered nurse practitioners as eligible health care professionals and adds Iowa community colleges as eligible institutions. In addition, this rule making makes a correction to an incorrect Iowa Code reference.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6478C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on November 18, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **283—14.1(261)**, definitions of “Eligible institution” and “Health care professional,” as follows:

“*Eligible institution*” means an institution of higher learning governed by the state board of regents, a community college established under Iowa Code chapter 260C, or an accredited private institution as defined in Iowa Code section 261.9. Eligible institutions seeking to participate must complete an

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

application provided by the commission and agree to place health care professionals in eligible rural communities.

“Health care professional” means an individual who holds a practitioner’s license issued by an agency or board under the Iowa department of public health and is employed as an advanced registered nurse practitioner, athletic trainer, occupational therapist, physician, physician assistant, podiatrist, ~~or~~ physical therapist, or registered nurse.

ITEM 2. Amend subrule 14.2(6) as follows:

14.2(6) Restrictions. A recipient of a loan repayment award under Iowa Code section 261.113, 261.114, or ~~261.115~~ 261.116 shall not be eligible for an award under this chapter. A health care professional who is in default on a Stafford loan, SLS loan, Grad PLUS loan, or a Perkins/National Direct/National Defense student loan or who owes a repayment on any Title IV grant assistance or state award shall be ineligible for repayment benefits. Eligibility for state aid may be reinstated upon payment in full of the delinquent obligation or by commission ruling on the basis of adequate extenuating evidence presented in appeal under the procedures set forth in 283—Chapter 5.

[Filed 11/18/22, effective 1/18/23]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6730C

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

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

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

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 and 2022 Iowa Acts, House File 2165.

Purpose and Summary

This rule making implements changes enacted by 2022 Iowa Acts, House File 2165. House File 2165 allows students under age 20 who attend an eligible program of study on a part-time basis to qualify for the Future Ready Iowa Skilled Workforce Last-Dollar Scholarship.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6479C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on November 18, 2022.

COLLEGE STUDENT AID COMMISSION[283](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 Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 18, 2023.

The following rule-making action is adopted:

Amend subparagraph **15.3(1)“j”(1)** as follows:

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

[Filed 11/18/22, effective 1/18/23]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6731C

COLLEGE STUDENT AID COMMISSION[283]**Adopted and Filed****Rule making related to rural Iowa primary care loan repayment program**

The College Student Aid Commission hereby amends Chapter 24, “Rural Iowa Primary Care Loan Repayment Program,” Iowa Administrative Code.

Legal Authority for Rule Making

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

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

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 261 as amended by 2022 Iowa Acts, Senate File 2383, and 2022 Iowa Acts, House File 2463.

Purpose and Summary

This rule making implements amendments enacted by 2022 Iowa Acts, Senate File 2383. Senate File 2383 adds neurology as an eligible specialty, allows an applicant to complete an out-of-state residency program, and allows physicians to practice part-time in a service commitment area in regard to the Rural Iowa Primary Care Loan Repayment Program. In addition, the Commission defines how awards will be made under the program in the event that surplus funds exist. This rule making also implements amendments enacted by 2022 Iowa Acts, House File 2463, corresponding to nonsubstantive corrections to the Iowa Code.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6480C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on November 18, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any, pursuant to 283—Chapter 7.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Adopt the following **new** definition of “Part-time practice” in rule **283—24.2(261)**:

“*Part-time practice*” means that the physician is employed at least 28 hours of a 40-hour workweek in a service commitment area.

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

ITEM 2. Amend rule **283—24.2(261)**, definitions of “Physician,” “Residency program” and “Service commitment area,” as follows:

“*Physician*” means an individual who holds a practitioner’s license issued by an agency or board under the Iowa department of public health and is employed in the practice of medicine and surgery or osteopathic medicine and surgery, specializing in family medicine, pediatrics, psychiatry, internal medicine, obstetrics and gynecology, neurology, or general surgery.

“*Residency program*” means an accredited medical residency program ~~located in the state of Iowa in which the residency is physically performed in the state of Iowa.~~

“*Service commitment area*” means a medically underserved Iowa city ~~which~~ that provides a nonrefundable contribution for each physician in the community who is participating in the rural Iowa primary care loan repayment program, and ~~which the city~~ meets any of the following conditions:

1. Is a city within a federal mental health shortage area, as designated by the Health Resources and Services Administration of the United States Department of Health and Human Services, if the physician participating in the rural Iowa primary care loan repayment program specializes in psychiatry.

2. Is a city with a population of less than 26,000 that is located more than 20 miles from a city with a population of 50,000 or more. Locations and distances between cities will be consistently measured and verified by calculating the shortest travel distance on paved roads.

ITEM 3. Amend rule 283—24.3(261) as follows:

283—24.3(261) Eligibility requirements.

24.3(1) An eligible university will recommend ~~up to ten~~ applicants to the commission for loan repayment benefits. Priority will be given to students who are Iowa residents upon enrolling in the eligible university. “Iowa resident” means an individual who meets the residency requirements established in 283—Chapter 10. The percentage of the agreements to be entered into by students attending each eligible university shall be evenly divided.

a. The commission will annually determine and communicate the number of recommendations that can be funded at each eligible university.

b. If fewer than the recommendations in 24.3(1)“*a*” are fulfilled by students at one eligible university, the commission may obtain additional recommendations from the other eligible university to award the remaining agreements.

c. If fewer than the total number of recommendations in 24.3(1)“*a*” are filled by students at the eligible universities, the commission may enter into additional agreements under the surplus funds provisions.

24.3(2) and **24.3(3)** No change.

24.3(4) An applicant must apply for, enter, and complete a residency program ~~in Iowa.~~

24.3(5) Within nine months of graduating from the residency program, an applicant must receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time or part-time practice, ~~as defined by the service commitment area,~~ of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, obstetrics and gynecology, neurology, or general surgery for a period of five consecutive years in a service commitment area.

24.3(6) No change.

24.3(7) Prior to or upon engagement in full-time ~~employment~~ or part-time practice in a service commitment area, the physician must contract with a service commitment area to provide a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

24.3(8) No change.

ITEM 4. Amend rule 283—24.5(261) as follows:

283—24.5(261) Waivers.

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

24.5(1) No change.

24.5(2) *Full-time employment.* The commission may waive the requirement that the physician be employed full-time if the physician requests a waiver from the commission in writing and is working at least 28 hours per week. If a waiver request is granted by the commission, the agreement will be amended to provide an allowance for part-time employment. The For agreements entered into pursuant to 24.3(2) prior to July 1, 2022, the five-year employment obligation will be proportionally extended to ensure the physician is employed in a service commitment area for the equivalent of five full-time years.

24.5(3) *Postponement of physician employment.* The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for no more than two years from the time full-time or part-time practice was to commence. The physician must request a waiver from the commission in writing for one of the following purposes:

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

The physician obligation to engage in practice in accordance with 24.3(5) may be postponed for a period exceeding two years for any period of temporary medical incapacity, including leave approved under the Family and Medical Leave Act, during which the physician is unable to engage in full-time or part-time practice. The physician must request a waiver from the commission in writing.

24.5(4) No change.

ITEM 5. Renumber rules **283—24.6(261)** and **283—24.7(261)** as **283—24.7(261)** and **283—24.8(261)**.

ITEM 6. Adopt the following **new** rule 283—24.6(261):

283—24.6(261) Surplus funds.

24.6(1) In the event that fewer than the total number of recommendations in 24.3(1)“a” are filled by students at the eligible universities, the commission may enter into additional agreements.

24.6(2) A surplus funds applicant must meet the following criteria:

- a. Must have graduated with a doctor of medicine or osteopathy degree from an eligible university and completed a residency program.
- b. Must receive a permanent license to practice medicine and surgery or osteopathic medicine and surgery in the state of Iowa and engage in full-time or part-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, obstetrics and gynecology, neurology, or general surgery for a period of five consecutive years in a service commitment area. The applicant must notify the commission of the applicant’s service commitment area prior to beginning practice in the service commitment area.
- c. Must complete and return to the commission an affidavit of acceptance into and completion of a residency program, acceptance of employment, and completion of annual employment obligations in a service commitment area.
- d. Must contract with a service commitment area to provide a nonrefundable \$20,000 contribution for deposit in the rural Iowa primary care trust fund. Payment must be received by the commission from a service commitment area prior to payment of any loan repayment awards.

24.6(3) An applicant under rule 283—24.6(261) is subject to the provisions in 24.4(2) and rules 283—24.5(261), 283—24.7(261), and 283—24.8(261).

24.6(4) In the event that the total amount of surplus funds is insufficient to award all eligible applicants, awards will be prioritized as follows:

- a. Physicians employed in a different state than Iowa and individuals in their final year of residency or fellowship, by date of application.

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

b. All other applicants by date of application.

[Filed 11/18/22, effective 1/18/23]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6733C

DENTAL BOARD[650]

Adopted and Filed

Rule making related to expanded functions

The Dental Board hereby amends Chapter 10, "General Requirements," and Chapter 23, "Expanded Functions," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 147.76 and chapter 153.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 153.

Purpose and Summary

These amendments update the rules related to expanded functions. The amendments lower the clinical practice requirement following registration for dental assistants to train in expanded functions and provide greater flexibility to train in the functions. The rule making moves some of the Level 2 expanded functions to Level 1 designation for the purposes of training. Additionally, the rule making allows individuals to train in Level 2 expanded functions without the requirement to first complete training in all Level 1 expanded functions. The amendments include one amendment to Chapter 10 to reflect an earlier change to Chapter 23 and Iowa Code section 153.38.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as **ARC 6515C**. The Board accepted written comments through September 30, 2022. The Board received ten written comments. Six of the comments supported the changes that were drafted and in instances commended the Board for attempting to address access to care and staffing needs, particularly in rural areas. Four of the comments expressed concerns with some sections of the proposed rule making. One of the commenters preferred that the rules related to Level 2 expanded functions be left as they were. One of the commenters, who provides expanded function training, offered suggestions for revision to some of the expanded functions, including the number of hours required for training in each area. Additionally, the commenter expressed a preference to eliminate the initial assessment for expanded functions training at the start of a course. The other commenters expressed concern about the reduction in the clinical practice requirement prior to training in expanded functions. This concern arose from the elimination of the minimum training requirement prior to a dental assistance trainee becoming a registered dental assistant, as adopted in **ARC 6673C** (11/16/22 IAB). The concerns focused on potential risks to the public as a result of the services being performed before the dental assistants are fully prepared.

The following changes from the Notice have been made:

- A revision to Chapter 10 to reflect an earlier change to Chapter 23 and Iowa Code section 153.38 in Item 1. Subsequent items have been renumbered;

DENTAL BOARD[650](cont'd)

- Instead of rescission, an amendment is made to the definition of “provisional restorations” in new Item 3. Subsequent items have been renumbered;
- A reorganization of the orthodontic functions to better meet the needs of orthodontic offices;
- Updates to the minimum training standards based on input from members of the public and the reorganization of some of the Level 1 expanded functions; and
- The grouping of the placement of temporary restorative materials into a single function as opposed to two separate functions.

Adoption of Rule Making

This rule making was adopted by the Board on November 21, 2022.

Fiscal Impact

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

Jobs Impact

After analysis and review of this rule making, there will be a positive impact on jobs in Iowa since the rule making allows licensees and registrants greater flexibility to grow within the profession.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 650—7.4(17A,147,153).

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 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **10.3(1)“e”** as follows:

e. The following services may only be delegated by a dentist to a dental hygienist: administration of local anesthesia, placement of sealants except as permitted by 650—subrule 23.6(2), and the removal of any plaque, stain, calculus, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish.

ITEM 2. Rescind the definitions of “Direct supervision,” “General supervision of a dental assistant” and “General supervision of a dental hygienist” in rule **650—23.1(153)**.

ITEM 3. Amend rule **650—23.1(153)**, definition of “Provisional restoration,” as follows:

“Provisional restoration” means a crown or bridge placed with the intention of being replaced with a permanent crown or bridge at a later date, or a permanent crown provisionally recemented to be replaced or recemented at a later date restoration or appliance, which is formed or preformed for temporary purposes, used over a limited period of time.

ITEM 4. Amend subrules 23.2(2) and 23.2(3) as follows:

23.2(2) To be eligible to train in Level 1 expanded function procedures, dental hygienists or dental assistants must comply with one of the following:

DENTAL BOARD[650](cont'd)

- a. Hold an active dental hygiene license in Iowa; or
- b. Hold an active dental assistant registration, and comply with at least one of the following:
 - (1) Be a graduate of an accredited school; or
 - (2) Be currently certified by the Dental Assisting National Board (DANB); or
 - (3) Have at least ~~one year~~ three months of clinical practice as a registered dental assistant; or
 - (4) Have at least ~~one year~~ three months of clinical practice as a dental assistant in a state that does not require registration.

23.2(3) A dentist who delegates Level 1 or Level 2 expanded function procedures to dental hygienists or dental assistants under direct supervision must examine the patient to review the quality of work prior to the conclusion of the dental appointment. The following expanded function procedures are exempt from this requirement and may be performed under general supervision:

- a. Recementation of a provisional restoration.
- b. Taking occlusal registrations for purposes other than mounting study casts by ~~Level 1 or Level 2~~ dental hygienists only.

ITEM 5. Amend rule 650—23.3(153) as follows:

650—23.3(153) Expanded function categories. Dental hygienists and dental assistants must be issued a certificate of completion for the corresponding function in which training has been completed by a board-approved training program before performing a specific expanded function procedure. A dentist may delegate to dental hygienists or dental assistants only those expanded function procedures in which training has been successfully completed.

~~**23.3(1) Basic Level 1.** Dental hygienists or dental assistants who train in some, but not all, Level 1 expanded function procedures are deemed to be basic expanded function dental hygienists or dental assistants. Dental hygienists and dental assistants must be issued a certificate of completion for the corresponding function by a board-approved training program before performing a specific expanded function procedure. A dentist may delegate to dental hygienists or dental assistants only those Level 1 expanded function procedures for which training has been successfully completed. Level 1 expanded functions may be taught by board-approved training providers using curriculum prior-approved by the board.~~

~~**23.3(2) Certified Level 1.** Expanded function dental hygienists or dental assistants who have successfully completed training for all Level 1 expanded function procedures and have been issued a certificate of completion by a board-approved training program are deemed to be certified Level 1 dental hygienists or dental assistants.~~

~~**23.3(3) 23.3(2) Certified Level 2.** Before beginning Level 2 training to become certified in Level 2, expanded function dental hygienists or dental assistants must have a minimum of one year of clinical practice as a certified Level 1 dental hygienist or dental assistant and pass an entrance examination administered by the Level 2 training program. Training in Level 2 expanded functions must be completed at the University of Iowa College of Dentistry or another accredited school using curriculum approved by the board. Before beginning Level 2 training, dental assistants and dental hygienists must complete all prerequisites established by the accredited school for the Level 2 training to be completed.~~

~~a. Dental hygienists or dental assistants who have successfully completed training in Level 2 expanded function procedures and have been issued a certificate of completion by a board-approved training program are deemed to be certified Level 2 dental hygienists or dental assistants.~~

~~b. A dentist may delegate any Level 1 or Level 2 expanded function procedures to dental hygienists or dental assistants who are certified Level 2.~~

ITEM 6. Amend rule 650—23.4(153) as follows:

650—23.4(153) Level 1 expanded function procedures for dental assistants. Level 1 expanded function procedures for dental assistants include:

23.4(1) Taking occlusal registrations;

23.4(2) Placement and removal of gingival retraction material;

DENTAL BOARD[650](cont'd)

23.4(3) Fabrication, temporary cementation, and removal of provisional restorations following review of the fit and function by the supervising dentist, and temporary recementation of provisional restorations;

23.4(4) Applying cavity liners and bases; and desensitizing agents; and bonding systems, to include the placement of orthodontic brackets, following the determination of location by the supervising dentist;

23.4(5) Applying bonding systems, which may include the placement of the attachments used in clear aligner systems, following review of the fit and function by the supervising dentist;

23.4(6) Placement, bonding, and removal of provisional orthodontic restorations as follows:

a. Placement or bonding of orthodontic brackets and bands or provisional orthodontic appliances following review of the fit and function by the supervising dentist; and

b. Removal of adhesive, orthodontic brackets and bands, or provisional orthodontic appliances using nonmotorized hand instrumentation;

23.4(5) 23.4(7) Monitoring of patients receiving nitrous oxide inhalation analgesia, which may include increasing oxygen levels as needed, pursuant to the following:

a. A dentist shall induce a patient and establish the maintenance level;

b. A dental assistant may make adjustments that decrease the nitrous oxide concentration during the administration of nitrous oxide;

c. A dental assistant may turn off the oxygen delivery at the completion of the dental procedure;

23.4(6) 23.4(8) Taking final impressions;

23.4(7) 23.4(9) Removal of adhesives using nonmotorized hand instrumentation;

23.4(8) 23.4(10) Placement of Class-I temporary filling restorative materials following preparation of the tooth by a dentist; and

23.4(9) Recementation of provisional restorations.

23.4(11) Extraoral adjustment to acrylic dentures without making any adjustments to the prosthetic teeth; and

23.4(12) Tissue conditioning (soft reline only).

ITEM 7. Amend rule 650—23.5(153) as follows:

650—23.5(153) Level 1 expanded function procedures for dental hygienists. Level 1 expanded function procedures for dental hygienists include:

23.5(1) Taking occlusal registrations;

23.5(2) Placement and removal of gingival retraction material;

23.5(3) Fabrication, temporary cementation, and removal of provisional restorations following review of the fit and function by the supervising dentist, and temporary recementation of provisional restorations;

23.5(4) Applying cavity liners and bases and applying bonding systems for restorative purposes, including the placement of orthodontic brackets, following the determination of location by the supervising dentist;

23.5(5) Applying bonding systems, which may include the placement of the attachments used in clear aligner systems, following review of the fit and function by the supervising dentist;

23.5(5) 23.5(6) Taking final impressions;

23.5(7) Placement, bonding, and removal of provisional orthodontic appliances as follows:

a. Placement or bonding of orthodontic brackets and bands or provisional orthodontic appliances following review of fit and function by the supervising dentist; and

b. Removal of adhesive, orthodontic brackets and bands, or provisional orthodontic appliances;

23.5(6) 23.5(8) Placement of Class-I temporary filling restorative materials following preparation of the tooth by a dentist; and

23.5(7) Recementation of provisional restorations.

23.5(9) Extraoral adjustment to acrylic dentures without making any adjustments to the prosthetic teeth; and

23.5(10) Tissue conditioning (soft reline only).

DENTAL BOARD[650](cont'd)

ITEM 8. Amend rule 650—23.6(153) as follows:

650—23.6(153) Level 2 expanded function procedures for dental hygienists and dental assistants.

23.6(1) Level 2 expanded function procedures for dental hygienists and dental assistants include:

- a. Placement and shaping of amalgam following preparation of a tooth by a dentist;
- b. Placement and shaping of adhesive restorative materials following preparation of a tooth by a dentist;
- c. Polishing of adhesive restorative material using a slow-speed handpiece; and
- d. Fitting of stainless steel crowns on primary posterior teeth, and cementation after fit verification by a dentist;

~~e. Tissue conditioning (soft reline only);~~

~~f. Extraoral adjustment to acrylic dentures without making any adjustments to the prosthetic teeth; and~~

~~g. Placement of intracoronal temporary fillings following preparation of a tooth by a dentist.~~

23.6(2) Level 2 expanded function procedures for dental assistants include the placement of sealants.

The placement of sealants is included in the scope of practice for dental hygienists and is not considered an expanded function for dental hygienists.

23.6(3) These Level 2 expanded function procedures refer to both primary and permanent teeth except as otherwise noted. Training in Level 2 expanded functions may be separated between application of the services on primary or permanent teeth as determined by the accredited training provider.

ITEM 9. Amend rule 650—23.7(153) as follows:

650—23.7(153) Expanded function training.

23.7(1) *Approved expanded function training programs.* Training programs for Level 1 and Level 2 expanded function procedures must be board-approved. Training programs for Level 2 expanded function procedures shall be eligible for board approval if the training is offered through the University of Iowa College of Dentistry or another accredited school.

23.7(2) *Certificates of completion.* All board-approved training programs are authorized and required to issue certificates to dental hygienists and dental assistants who successfully complete expanded function training. A certificate shall be issued for one or more of the listed expanded function procedures completed as ~~Basic Level 1, or a certificate shall be issued for Certified Level 1 or Certified Level 2.~~ Dental hygienists and dental assistants shall prominently display the expanded functions certificate in each dental facility where services are provided.

23.7(3) *Training requirements.* Training may be completed in one or more of the listed expanded function procedures. Clinical training in expanded function procedures must be completed under observational supervision. ~~Beginning January 1, 2020,~~ Level 1 expanded function training must consist of the following:

- a. An initial assessment to determine the base entry level of all participants in the program;
- b. Completion of a training program that meets the following minimum standards for each function:

(1) Taking occlusal registrations:

Goal: To reproduce the patient's jaw relationship accurately.

Standard: Demonstrate an accurate occlusal registration confirmed by a supervising dentist.

Minimum training requirement: One hour of didactic training, and clinical training that includes a minimum of five patient experiences under observational supervision.

(2) Placement and removal of gingival retraction material:

Goal: To expose the margins of a crown by displacing tissue from the tooth.

Standard: Perform the procedural steps to place and remove retraction material and recognize oral conditions and techniques that may compromise tissue displacement or patient health.

Minimum training requirement: Two hours of didactic training, the equivalent of one hour of laboratory training that includes a minimum of three experiences, and clinical training that includes a minimum of five patient experiences under observational supervision.

DENTAL BOARD[650](cont'd)

(3) Fabrication, temporary cementation, temporary recementation, and removal of provisional restorations:

Goal: To replicate the anatomy and function of the natural tooth, prior to the final restoration, and secure the provisional restoration to a previously prepared tooth after the provisional restoration has become loose or dislodged.

Standard: Use various methods to fabricate and temporarily cement single-unit and multiunit provisional restorations.

Minimum training requirement: Four hours of didactic training, the equivalent of four hours of laboratory training that includes a minimum of five experiences, and clinical training that includes a minimum of ten patient experiences under observational supervision.

(4) Applying cavity liners and bases; and desensitizing agents; ~~and bonding systems, to include the placement of orthodontic brackets, following the determination of location by the supervising dentist:~~

Goal: To apply appropriate material that protects existing tooth structure and ~~adheres existing tooth structure to restorative materials~~ to apply appropriate medicaments to minimize sensitivity to existing tooth structure.

Standard: Manipulate and apply appropriate material and apply appropriate medicaments to meet clinical competency.

Minimum training requirement: ~~Two hours~~ One hour of didactic training, the equivalent of one hour of laboratory training that includes a minimum of two experiences, and clinical training that includes a minimum of ~~5~~ five patient experiences in each one of ~~these areas (for a total of 15 patient experiences under observational supervision)~~ the functions under observational supervision.

(5) Applying bonding systems, which may include the placement of the attachments used in clear aligner systems, following review of the fit and function by the supervising dentist:

Goal: To apply appropriate material and systems that adhere to the existing tooth structure.

Standard: Manipulate and apply appropriate material and systems to meet clinical competency.

Minimum training requirement: Two hours of didactic training, the equivalent of one hour of laboratory training that includes a minimum of two experiences, and clinical training that includes a minimum of five patient experiences under observational supervision.

(6) Placement, bonding, and removal of orthodontic brackets and bands or provisional orthodontic appliances pursuant to subrules 23.4(5) and 23.5(7):

Goal: To place on and remove from the existing tooth structure orthodontic brackets and bands or provisional orthodontic appliances.

Standard: Manipulate and apply appropriate material and appliances to meet clinical competency.

Minimum training requirement: For each function, two hours of didactic training, the equivalent of one hour of laboratory training that includes a minimum of two experiences, and clinical training that includes a minimum of five patient experiences under observational supervision.

~~(5)~~ (7) Monitoring of patients receiving nitrous oxide inhalation analgesia, pursuant to subrule 23.4(5) 23.4(7):

Goal: Understand the equipment, recognize the signs of patient distress or adverse reaction, and know when to call for help.

Standard: Exercise the ability to maintain patient safety while nitrous oxide is used.

Minimum training requirement: Two hours of didactic training, one hour of laboratory training in the office where the dental hygienist or dental assistant is employed, and five patient experiences under observational supervision.

~~(6)~~ (8) Taking final impressions:

Goal: Reproduce soft and hard oral tissues, digitally or with impression materials.

Standard: Complete the procedural steps to obtain a clinically acceptable final impression.

Minimum training requirement: Three hours of didactic training, and the equivalent of clinical training that includes a minimum of six patient experiences under observational supervision.

~~(7)~~ (9) Removal of adhesives using nonmotorized hand instrumentation:

Goal: Remove excess adhesives and bonding materials to eliminate soft tissue irritation.

Standard: Identify how, when and where to remove excessive bonding or adhesive material.

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Minimum training requirement: One hour of didactic training, and clinical training that includes a minimum of five patient experiences under observational supervision.

~~(8)~~ (10) Placement of ~~Class 1~~ temporary filling restorative materials following preparation of the tooth by the dentist:

Goal: Place ~~Class 1~~ temporary filling restorative materials following preparation of a tooth by a dentist.

Standard: Identify how, when and where to place ~~Class 1~~ temporary filling restorative materials.

Minimum training requirement: ~~One hour~~ Two hours of didactic training, the equivalent of one hour of laboratory training that includes a minimum of two experiences, and clinical training that includes a minimum of five patient experiences under observational supervision.

~~(9) Recementation of provisional restorations:~~

Goal: ~~Secure the provisional restoration to a previously prepared tooth after the provisional restoration has become loose or dislodged.~~

Standard: ~~Use various methods to fabricate and temporarily cement single unit and multiunit provisional restorations.~~

Minimum training requirement: ~~If this training is completed in conjunction with training in fabrication, temporary cementation and removal of provisional crown and bridge restorations, the training requirements may be combined since the procedures are related. If this training is being completed separately, the same training requirements for fabrication, temporary cementation and removal of provisional restorations applies.~~

(11) Extraoral adjustment to acrylic dentures without making any adjustments to the prosthetic teeth:

Goal: To make adjustments to dentures.

Standard: Identify how and where to make extraoral adjustments to dentures.

Minimum training requirement: One hour of didactic training, the equivalent of one hour of laboratory training that includes a minimum of two experiences, and clinical training that includes a minimum of five patient experiences under observational supervision.

(12) Tissue conditioning (soft reline only):

Goal: To apply appropriate material to dentures.

Standard: Identify how and where to apply appropriate material to dentures.

Minimum training requirement: One hour of didactic training, the equivalent of one hour of laboratory training that includes a minimum of two experiences, and clinical training that includes a minimum of five patient experiences under observational supervision.

c. A postcourse written examination at the conclusion of the training program, with a minimum of ten questions per function, must be administered. Participants must obtain a score of 75 percent or higher on each examination administered.

23.7(4) Grandfathering. Any dental hygienist or dental assistant who has completed expanded function training prior to January 1, 2020, can continue to perform expanded function procedures for which training has been completed. For any expanded function procedures that are new, in whole or in part, additional training to satisfy the standard and minimum training requirement is required of the dental hygienist or dental assistant prior to performing the new expanded function procedure.

[Filed 11/22/22, effective 1/18/23]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6728C**ECONOMIC DEVELOPMENT AUTHORITY[261]****Adopted and Filed****Rule making related to historic preservation tax credit**

The Economic Development Authority (IEDA) hereby amends Chapter 49, “Historic Preservation and Cultural and Entertainment District Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 404A.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 404A.

Purpose and Summary

IEDA administers the Historic Preservation Tax Credit Program pursuant to Iowa Code chapter 404A. The program offers a state income tax credit of up to 25 percent of the qualified rehabilitation expenditures associated with a historic preservation project.

These amendments represent a comprehensive update of the chapter relating to the tax credit. Changes include the following:

1. References to tax credits for cultural and entertainment districts are removed. This portion of the program was repealed in 2017.
2. Portions of the rules relating to the responsibilities of the Iowa Department of Revenue (IDR) and the State Historic Preservation Office (SHPO) of the Department of Cultural Affairs in administering the program are removed. These aspects of the program are addressed in each of those agencies’ rules, including rules regarding transfers of tax credits and refundability. Refundability of the tax credits was impacted by 2022 Iowa Acts, House File 2317.
3. Beginning January 1, 2023, only expenditures made in the five years prior to an initial application for the tax credit will be qualified rehabilitation expenditures.
4. IEDA will extend the deadline for submitting a Part 3 application under extenuating circumstances.
5. Other corrective and clarifying changes are made.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6546C**. No public comments were received.

Since publication of the Notice, rule 261—49.10(404A) has been clarified regarding project completion prior to application. In paragraph 49.11(1)“b” (renumbered herein), specific requirements regarding consent of the property owner that were previously included elsewhere in the rules have been added. In addition, cross-references to rules of the Department of Revenue have been updated to reflect the renumbering of several chapters of the Department’s rules.

Adoption of Rule Making

This rule making was adopted by the Authority Board on November 18, 2022.

Fiscal Impact

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

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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 IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on January 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend **261—Chapter 49**, title, as follows:

~~HISTORIC PRESERVATION AND CULTURAL AND
ENTERTAINMENT DISTRICT TAX CREDITS CREDIT~~

ITEM 2. Amend rule 261—49.1(303,404A) as follows:

261—49.1(303,404A) Purpose. ~~A historic preservation and cultural and entertainment district tax credit may be applied against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432 for qualified rehabilitation projects that have entered into and complied with an agreement with the economic development authority (hereinafter referred to as “the authority”) and complied with all applicable terms, laws, and rules. The Pursuant to Iowa Code chapters 303 and 404A, the historic preservation tax credit program is administered by the authority with the assistance of the department of cultural affairs and the department of revenue. The general assembly has mandated that the authority, the department of cultural affairs and the department of revenue adopt rules to jointly administer Iowa Code chapter 404A. In general, the department of cultural affairs reviews historic preservation issues and evaluates whether projects comply with the prescribed historic standards for rehabilitation. Once the historical significance and description of rehabilitation have been approved, the authority enters into an agreement with the eligible taxpayer and issues a tax credit upon completion of all program requirements and verification of qualified rehabilitation expenditures. The department of revenue is responsible for administering tax credit transfers and processing tax credit claims. This chapter sets forth the administration of the program by the authority. The administrative rules for the department of cultural affairs’ administration of the program can be found in rules 223—48.22(404A) through 223—48.37(303,404A) 223—Chapter 48. The administrative rules for the department of revenue’s administration of the program may be found in rules 701—42.19(404A), 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422) 701—304.19(404A,422), 701—304.55(404A,422), 701—501.48(404A,422), and 701—601.10(404A,422).~~

ITEM 3. Amend rule 261—49.2(404A) as follows:

261—49.2(404A) Program transition and applicability. ~~The 2016 general assembly made several changes to the historic tax credit program, including transferring the primary responsibility for the program’s administration to the authority in consultation with the department of cultural affairs. For projects registered prior to August 15, 2016, the program is administered by the department of cultural~~

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

affairs and the department of revenue pursuant to the statutes and rules that apply to projects registered prior to August 15, 2016. On or after August 15, 2016, the program is administered by the economic development authority in consultation with the department of cultural affairs pursuant to Iowa Code chapter 404A. Chapter 49 applies to projects that are registered on or after August 15, 2016.

ITEM 4. Amend rule 261—49.3(404A) as follows:

261—49.3(404A) Definitions. ~~The definitions listed in rules 223—1.2(17A,303) and 223—35.2(303) shall apply to terms as they are used throughout this chapter. In addition, for~~ For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means an agreement between an eligible taxpayer and the authority concerning a qualified rehabilitation project as provided in Iowa Code section 404A.3(3) and rule 261—49.14(404A) 261—49.12(404A).

“*Applicant*” means an eligible taxpayer described in rule 261—49.9(404A).

“*Assessed value*” means the value of the eligible property on the most current property tax assessment at the time that the relevant application or agreement is submitted or the agreement is signed, as applicable.

“*Authority*” means the economic development authority.

“*Authority’s website*” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

“*Barn*” means an agricultural building or structure, in whatever shape or design, which was originally used for the storage of farm products or feed or for the housing of farm animals, poultry, or farm equipment.

“*Certificate*” means a historic preservation and cultural and entertainment district tax credit certificate issued pursuant to Iowa Code section 404A.3(5).

“*Commencement date*” means the date set forth in the agreement, which date shall not be later than the end of the fiscal year in which the agreement is entered into by which the qualified rehabilitation project must begin.

“*Commercial property*” means property classified as commercial, industrial, railroad, utility, or ~~multiresidential residential~~ for property tax purposes under rules 701—71.1(405,427A,428,441,499B), 701—76.1(434), and 701—77.1(428,433,437,438) 701—102.1(405,427A,428,441,499B), 701—106.1(434), and 701—107.1(428,433,437,438). “*Commercial property*” does not include property classified as residential property under 701—subparagraph 102.1(4)“c”(1).

“*Completion date*” means the date on which property that is the subject of a qualified rehabilitation project is placed in service, as that term is used in Section 47 of the Internal Revenue Code.

“*Department*” means the department of cultural affairs.

“*Director*” means the director of the economic development authority.

“*Eligible taxpayer*” means the fee simple owner of the property that is the subject of a qualified rehabilitation project, or another person who will qualify for the federal rehabilitation credit allowed under Section 47 of the Internal Revenue Code with respect to the property that is the subject of a qualified rehabilitation project.

“*Federal rehabilitation credit*” or “*federal credit*” means the tax credit allowed under Section 47 of the Internal Revenue Code.

“*Federal standards*” means the U.S. Secretary of the Interior’s standards for rehabilitation set forth in 36 CFR Section 67.7.

“*Government funding*” or “*funding originating from a government*” includes but is not limited to:

1. Any funding the applicant received from a federal, state, or local government; or
2. Funding from a third party or a series of third parties where those funds originally came from a government or were derived from a government payment, grant, loan, tax credit or rebate or other government incentive; or
3. Funding from a third party or a series of third parties where those funds are derived from, secured by, or otherwise received in anticipation of a government payment, grant, loan, tax credit or rebate or other government incentive.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“Historically significant” means a property that is at least one of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as contributing to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

“Large project” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000.

“National Register of Historic Places” means the same as defined in rule 223—35.2(303).

“Noncommercial property” means property other than “commercial property” as defined in this rule. “Noncommercial property” includes barns constructed prior to 1937.

“Nonprofit organization” means an organization described in Section 501 of the Internal Revenue Code unless the exemption is denied under Section 501, 502, 503, or 504 of the Internal Revenue Code. “Nonprofit organization” does not include a governmental body, as that term is defined in Iowa Code section 362.2.

“Part 1 application” means an application submitted to SHPO to determine whether a property is historically significant.

“Part 2 application” means an application submitted to SHPO to determine whether the proposed rehabilitation work meets the federal standards.

“Part 2B application” means an application submitted to the authority, after a Part 2 application has been approved by SHPO but before a Part 3 application is submitted, to determine whether a project should be registered for a tentative tax credit award.

“Part 3 application” means an application submitted to the authority, after a Part 2B application is approved, to determine whether a project has complied with the terms of an agreement as well as with applicable laws, rules and regulations, including federal standards, and is therefore eligible for issuance of a tax credit certificate.

“Placed in service” means the same as used in Section 47 of the Internal Revenue Code.

“Program” means the historic preservation and cultural and entertainment district tax credit program set forth in this chapter.

“Property” means the real property that is the subject of a “qualified rehabilitation project” or that is the subject of an application to become a qualified rehabilitation project.

“Qualified rehabilitation expenditures” or *“QREs”* means expenditures that meet the definition of “qualified rehabilitation expenditures” in Section 47 of the Internal Revenue Code and as described in rule 261—49.4(404A).

“Qualified rehabilitation project” or *“project”* means a project for the rehabilitation of property in this state that meets all of the following criteria:

1. The property is historically significant as defined in this rule.
2. The property meets the federal standards as defined in this rule.
3. The project is a substantial rehabilitation as defined in this rule.

“Related entities” means any entity owned or controlled in whole or in part by the applicant; any person or entity that owns or controls in whole or in part the applicant; or any entity owned or controlled in whole or in part by any current or prospective officer, principal, director, or owner of the applicant.

“Related persons” means any current or prospective officer, principal, director, member, shareholder, partner, or owner of the applicant.

“SHPO” means the state historic preservation office at of the department of cultural affairs.

“Small project” means a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of \$750,000 or less.

“Substantial rehabilitation” means qualified rehabilitation costs that meet or exceed the following:

1. In the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation or at least \$50,000, whichever is less; or
2. In the case of noncommercial property, costs totaling at least \$25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

ECONOMIC DEVELOPMENT AUTHORITY[261](cont'd)

“Tax credit” or “historic tax credit” means the historic preservation and cultural and entertainment district tax credit established in Iowa Code chapter 404A.

ITEM 5. Amend rule 261—49.4(404A) as follows:

261—49.4(404A) Qualified rehabilitation expenditures.

~~49.4(1) Definition. “Qualified rehabilitation expenditures” or “QREs” means expenditures that meet the definition of “qualified rehabilitation expenditures” in Section 47 of the Internal Revenue Code and are specified in the agreement.~~

~~49.4(2)~~ **49.4(1)** *Expenditures incurred by nonprofit organizations.* Notwithstanding the foregoing subrule definition in rule 261—49.3(404A), expenditures incurred by an eligible taxpayer that is a nonprofit organization shall be considered “qualified rehabilitation expenditures” if they are any of the following:

a. Expenditures made for structural components, as that term is defined in Treasury Regulation §1.48-1(c)(2).

b. Expenditures made for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, and development fees.

~~49.4(3)~~ **49.4(2)** *What expenditures qualify.* “Qualified rehabilitation expenditures” may include:

a. ~~Expenditures~~ For projects registered on or after January 1, 2023, expenditures incurred within five years prior to the date an agreement is entered into under Iowa Code section 404A.3(3). The amount of the historic tax credit is a maximum of 25 percent of the qualified rehabilitation expenditures verified by the authority following project completion, up to the amount specified in the agreement between the eligible taxpayer and the authority.

b. Reasonable developer fees. The authority may establish limits on developer fees and may adjust those limits. Any adjustment made to the established limit shall take effect 24 months after the adjustment is published on the authority’s ~~Web site~~ website. Developer fees that are qualified rehabilitation expenditures and that meet the limits effective at the time the ~~registration~~ Part 2B application is submitted shall be deemed reasonable by the authority.

~~49.4(4)~~ **49.4(3)** *Government financing.* “Qualified rehabilitation expenditures” does not include those expenditures financed by federal, state, or local government grants or forgivable loans unless otherwise allowed under Section 47 of the Internal Revenue Code. For an eligible taxpayer that is not eligible for the federal rehabilitation credit, expenditures financed with federal, state, or local government grants or forgivable loans are not qualified rehabilitation expenditures.

ITEM 6. Amend rule 261—49.5(404A) as follows:

261—49.5(404A) Historic preservation and cultural and entertainment district tax credit.

49.5(1) *Tax credit.* An eligible taxpayer who has entered into and complied with an agreement under Iowa Code section 404A.3(3) and has complied with the program statutes and rules is eligible to claim a historic tax credit of 25 percent of the qualified rehabilitation expenditures of a qualified rehabilitation project that are specified in the agreement. Notwithstanding any other provision in Iowa Code chapter 404A, this chapter, or any provision in the agreement to the contrary, the amount of the tax credit shall not exceed 25 percent of the final qualified rehabilitation expenditures verified by the authority pursuant to Iowa Code section 404A.3(5) “c.”

49.5(2) *Who may claim the credit.* ~~The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432. An individual may claim a tax credit under this rule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. For an individual claiming a tax credit of an estate or trust, the amount claimed by the individual shall be based upon the pro rata share of the individual’s earnings from the estate or trust. For an individual claiming a tax credit of a partnership, limited liability company, or S corporation, the amount claimed by the partner, member, or shareholder, respectively, shall be based upon the amounts designated by the eligible partnership, S corporation, or limited liability company, as applicable.~~

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~~49.5(3) *Transferability.* Tax credit certificates issued under Iowa Code section 404A.3 may be transferred to any person. For information on transfer of tax credits under this program, see department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

~~49.5(4) *Refundability and carryforward.* An eligible taxpayer or a transferee may elect to receive either a refundable or a nonrefundable tax credit. For information on refundable and nonrefundable tax credits, including the carryforward of nonrefundable tax credits, see department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

~~49.5(5) 49.5(2) *How to claim the tax credit.* For information on how to claim the tax credit, see To receive the tax credit, a taxpayer shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

ITEM 7. Amend rule 261—49.6(404A) as follows:

261—49.6(404A) Management of annual aggregate tax credit award limit. The authority shall not register, as described in rule 261—49.13(404A), more projects in a given fiscal year for tentative awards than there are tax credits available for that fiscal year under Iowa Code section 404A.4. The authority will determine the projects for which sufficient tax credits are available based on the estimated qualified rehabilitation expenditures identified in the ~~registration~~ Part 2B application, plus allowable cost overruns as described in paragraph 49.14(1)“c.” 49.12(1)“c.”

49.6(1) *Registration scoring.* If applicants’ total tax credit requests from a fiscal year allocation exceed the tax credit allocation for that fiscal year, the authority will prioritize its determinations based on the applicants’ registration scores. ~~All registered projects must meet the minimum score as described in rule 261—49.13(404A).~~ If there are no more projects that meet the minimum score as described in rule 261—49.13(404A) 261—49.11(404A), the authority may make the remaining tax credits available for small projects or allow the remaining tax credits for the fiscal year to carry forward to the succeeding fiscal year to the extent permitted by Iowa Code section 404A.4.

49.6(2) *Registrations for future tax credit allocations.* Registrations for future tax credit allocations require a new Part 2B application. When registering projects for a particular fiscal year, the authority shall not award, reserve, or register tax credits from future fiscal years’ tax credit allocations. An applicant whose project is not registered due to an insufficient score or noncompliance with the application or the program statute or rules may submit future applications for future fiscal year tax credit allocations.

49.6(3) *Reallocation or rollover of available tax credit awards.* Tax credits may be reallocated or rolled over into future fiscal years to the extent permitted by Iowa Code section 404A.4.

ITEM 8. Amend rule 261—49.7(404A) as follows:

261—49.7(404A) Application and agreement process, generally Applications.

49.7(1) All applications and other filings related to the program shall be on such forms and in accordance with such instructions as may be established by SHPO and the authority. Information about the program ~~and, including a link to the online application applications~~ and instructions, may be obtained ~~by contacting the authority or by visiting the authority’s Web site: website.~~

Iowa Economic Development Authority
Community Development Division
200 East Grand Avenue, Des Moines, Iowa 50309
(515)725-3000
<http://iowaeconomicdevelopment.com/>

49.7(2) An application shall not be considered submitted for review until the application is completed and all required supporting documentation and information are provided.

49.7(3) The application and agreement process consists of six steps:

a. ~~The applicant submits a Part 1 application to the authority, which is used to evaluate the property’s integrity and significance. The authority will consult with SHPO when reviewing the Part 1 application.~~

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~~b. Unless the Part 1 application is denied by the authority, the applicant participates in a preapplication meeting with SHPO and the authority to discuss what to expect for the remainder of the application process.~~

~~c. If the Part 1 application is approved and the preapplication meeting is completed, the applicant submits a Part 2 application to the authority, which is used to evaluate the proposed rehabilitation work. The authority will consult with SHPO when reviewing the Part 2 application.~~

~~d. If the Part 2 application is approved, the applicant submits a registration application to the authority, which is used to score the applicant's rehabilitation plan and financial readiness. If the project is awarded a sufficient registration score, satisfies other requirements of the application and program, and sufficient tax credits are available, the authority may register the project.~~

~~e. If the project is registered, the applicant may enter into an agreement with the authority that establishes the maximum amount of the tax credit award and the terms and conditions that must be met to receive the tax credits. An applicant must enter into and comply with an agreement in order to participate in the program and claim any tax credits.~~

~~f. Once the project is completed and the property is placed in service, the applicant submits a Part 3 application to the authority, which is used to evaluate whether the completed work meets the federal standards and the other requirements of the agreement, laws, and regulations of the program. The authority will consult with SHPO when reviewing the Part 3 application.~~

~~A more detailed description of each step is provided in rules 261—49.10(404A) through 261—49.15(404A).~~

ITEM 9. Amend rule 261—49.8(404A) as follows:

261—49.8(404A) Small projects. ~~Projects with anticipated final qualified rehabilitation expenditures of more than \$750,000 will be evaluated as large projects. Projects with \$750,000 or less in anticipated final rehabilitation expenditures will be evaluated as small projects. If an applicant anticipates that the final qualified rehabilitation expenditures will exceed \$750,000, the applicant may only shall not submit its application as a large small project. The authority will not permit a small project applicant to submit additional or amended applications that would cause the final qualified expenditures to exceed \$750,000.~~

49.8(1) Small project fund. ~~The authority shall allocate at least 5 percent of its annual fiscal year tax credit award limit to small projects.~~

49.8(2) Aggregate award limit. ~~For applicants that receive credits from the small project allocation, the cumulative total award for multiple applications for a single property shall not exceed \$750,000 in qualified rehabilitation expenditures plus any allowable cost overruns as described in paragraph 49.14(1)“e,” 49.12(1)“c,” regardless of the final qualified rehabilitation expenditures. The authority will not accept an application by the same owner for a property for which credits were previously received through the small project fund if the application causes the cumulative total to exceed \$750,000, plus any allowable cost overruns as described in paragraph 49.14(1)“e,” 49.12(1)“c.”~~

49.8(3) Application and agreement process Small project Part 2B applications. ~~The Part 1, Part 2, and Part 3 application process and the agreement requirements are the same for small projects as for large projects. The registration process for small projects differs from that for large projects. See subrule 49.13(8) for more information on the registration process for small projects. Small project application forms may be obtained by visiting the authority's website. Small project Part 2B applications may be accepted on a continuous basis or may be accepted during one or more application periods. Small project Part 2B applications may be evaluated on a first-come, first-served basis, subject to the availability of tax credits.~~

ITEM 10. Amend rule 261—49.9(404A) as follows:

261—49.9(404A) Who may apply for the tax credit. ~~Only an eligible taxpayer as defined in rule 261—49.3(404A) may apply for the tax credit. To be an eligible taxpayer, the applicant must be either (1) the fee simple owner or (2) a person that will ultimately qualify for the federal rehabilitation credit with respect to the qualified rehabilitation project. A nonprofit organization as defined in rule~~

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261—49.3(404A) may apply for the tax credit if the nonprofit organization is the fee simple owner of the property.

49.9(1) *Applicants that are fee simple owners Preliminary documentation.* ~~If the applicant qualifies as an eligible taxpayer on the basis that the applicant is the fee simple owner of the property, the~~ At the time a Part 1 application or Part 2 application is submitted, an applicant will be expected to provide proof of title as described in subrule 49.10(2) preliminary documentation of the applicant's status as an eligible taxpayer.

a. An applicant that is the fee simple owner shall provide title documentation. If the title is held in the name of an entity, the applicant shall also provide documentation that indicates that the signatory is the authorized representative of the entity.

b. An applicant that is not the fee simple owner but plans to apply for the federal rehabilitation credit shall provide a copy of the approved federal Part 1 application, unless the property is individually listed on the National Register of Historic Places. The applicant must also certify that the applicant plans to apply and expects to qualify for the federal credit. The applicant must obtain from the fee simple owner of the property a written statement that indicates that the owner is aware of the application and has no objection and include the statement with the application.

49.9(2) *Applicants that will qualify for the federal credit Final documentation.* ~~If the applicant qualifies as an eligible taxpayer on the basis that the applicant will qualify for the federal rehabilitation credit with regard to the property, the applicant will be asked to provide increasingly substantial evidence as described in subrules 49.10(2) and 49.12(1) that the applicant will qualify for the federal credit, culminating with proof of actual fee simple ownership or a long-term lease that meets the requirements of the federal rehabilitation credit before the agreement is entered into with the authority. Applicants that are eligible to apply under this subrule must obtain from the fee simple owner of the property a written statement which indicates that the owner is aware of the application and has no objection and include the statement with the application. At the time an eligible taxpayer enters an agreement with the authority pursuant to rule 261—49.12(404A), the eligible taxpayer must provide documentation that the eligible taxpayer is a fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.~~

49.9(3) *Who may not apply.* ~~Government~~ Governmental bodies as defined in Iowa Code section 362.2 may not apply. ~~Additionally, an applicant may not initiate the application process to apply for tax credits by submitting a Part 1 application on a project if all of the work has been completed and the qualified rehabilitation project has already been placed in service.~~

ITEM 11. Rescind rule 261—49.10(404A) and adopt the following new rule in lieu thereof:

261—49.10(404A) Part 1 and Part 2 applications. An eligible taxpayer shall submit preliminary applications to SHPO to evaluate, in consultation with the authority, whether the property is historically significant (Part 1) and whether the proposed rehabilitation work meets the federal standards (Part 2). Part 1 and Part 2 applications will be submitted and evaluated in accordance with the SHPO's rules in 223—Chapter 48. The authority will evaluate Part 1 and Part 2 applications to ensure applicants are eligible taxpayers. An applicant must submit a Part 1 application prior to the project being completed and placed in service.

ITEM 12. Rescind rules **261—49.11(404A)** and **261—49.12(404A)**.

ITEM 13. Renumber rules **261—49.13(404A)** to **261—49.19(303,404A)** as **261—49.11(404A)** to **261—49.17(303,404A)**.

ITEM 14. Amend renumbered rule 261—49.11(404A) as follows:

261—49.11(404A) Registration Part 2B application. ~~If the authority SHPO has approved Part 1 and Part 2 applications for a project, the applicant may submit a historic tax credit registration Part 2B application to the authority during the applicable registration application period as announced on the authority's website. The registration application is used to determine whether the project is ready to proceed both financially and logistically. The registration application is also used to confirm whether~~

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~~the proposed work will meet the substantial rehabilitation test and whether the project is a small project or a large project. The registration application is also used to obtain background information, including information that may disqualify an applicant from participating in the program, as well as other information about the applicant, related persons, and related entities. Though the application process is largely the same for small projects as it is for large projects, there are some differences. For details on those differences, see rule 261—49.8(404A).~~

49.11(1) Proof of status as eligible taxpayer. An eligible taxpayer as defined in rule 261—49.3(404A) may submit a registration Part 2B application.

a. An applicant that is the fee simple owner must notify the authority of any changes in ownership status since the Part 2 application was filed.

b. If the applicant is not the fee simple owner but plans to apply for the federal rehabilitation credit, the applicant's application will be scored based on the steps taken toward ownership as described in ~~subrule 49.13(6)~~ 49.11(6). The applicant must certify that the applicant understands that the applicant will not qualify for any state historic tax credit if the applicant is not the fee simple owner or not otherwise an eligible taxpayer. The applicant must also provide ~~proof of permission from the fee simple owner as described in subrule 49.9(2)~~ a written statement that indicates that the owner is aware of the application and has no objection.

49.11(2) Submission period. ~~In general, applications for registration will only be accepted during the established application period, or periods, as identified by the authority on its Web site. However, applications for small project registration will be accepted year-round. The authority may accept Part 2B applications on a continuous basis or may accept applications during one or more application periods.~~

49.11(3) Required information. The registration Part 2B application must include the following information as well as any additional information the authority may request: total project cost, an estimated schedule of qualified rehabilitation expenditures and a schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), including any funding that originated or will originate from any government, whether federal, state, or local.

49.11(4) Certification and release of information. The applicant must identify and list all related persons and related entities, as those terms are defined in rule 261—49.3(404A). The applicant must release information requested by the authority regarding the applicant, related persons, and related entities. The applicant must also certify that all representations, warranties, documents, or statements made or furnished in connection with the registration Part 2B application are true and accurate. The certification and release of information are intended to identify information that ~~will~~ may disqualify an applicant from participating in the program or that may have an adverse impact on the project. The certification and release of information are also intended to provide the authority with information regarding the economic, ownership, and management realities related to the project by providing information about the actual persons and businesses affiliated with the applicant, the actual persons and businesses that will derive financial benefits from the project, and other businesses affiliated with the individuals involved with the project.

a. The authority ~~shall~~ may reject an application for registration if ~~any of the following occurs or exists:~~

(1) The applicant fails to answer the questions and provide all requested information and documents in a timely manner ~~as required by the rules or the application or in a timely manner as otherwise requested by the authority.~~

(2) The applicant provides false or inaccurate information or documents to the authority.

(3) The applicant, a related person, or a related entity ~~has not filed~~ is not in good standing with any local, state, or federal ~~tax returns that are due~~ taxing authority. This provision shall not apply to an applicant, related person, or related entity that has timely filed an extension to file a local, state or federal tax return.

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~~(4) The applicant, a related person, or a related entity has any overdue local, state, or federal tax liability, including any tax, interest, or penalty.~~

~~(5) (4) The applicant, a related person, or a related entity is currently in default, has an uncured breach, or is otherwise not in compliance with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.~~

~~(6) (5) The applicant, a related person, or a related entity has any overdue amounts owed to the state of Iowa, any agency of the state of Iowa, any other entity or instrumentality of the state of Iowa, or any person or entity that is eligible to submit claims to the state offset system under Iowa Code section 8A.504.~~

~~(7) The authority determines that registering the project, entering into an agreement with the authority, or permitting the applicant's tax credit claim would cause the applicant or another person to default on, breach, or otherwise not comply with any contract, grant award, or tax credit program with the state of Iowa, any agency of the state of Iowa, or any other entity or instrumentality of the state of Iowa.~~

~~(8) (6) The authority determines that the applicant will not be able to provide representations, warranties, conditions, or other terms of an agreement that would be acceptable to the authority.~~

~~(9) (7) Information is disclosed to the authority that would cause the authority to decline to enter into an agreement with the applicant.~~

b. Scope of inquiry. The authority may ask the applicant to disclose information and documents about other entities affiliated with the applicant, a related person, or a related entity if the authority determines that the information regarding the applicant, related persons, and related entities does not adequately disclose to the authority the economic, ownership, and management structure and realities related to a project.

c. In determining whether to reject an application in accordance with this subrule, the authority will consider factors including, but not limited to, the nature of the information disclosed and whether the applicant has a record of violations of law over a period of time that tends to show a consistent pattern.

49.11(5) Review period. In general, the authority, in consultation with SHPO, will review fully completed registration Part 2B applications within ~~30~~ 60 calendar days of receipt. The ~~30-day~~ 60-day review period will be adhered to as closely as possible; however, it is not mandatory. ~~If any answers, responses, explanations, documents, or other information submitted in connection with the certification and release of information changes after the applicant has submitted this information to the authority, the applicant must supplement its response to the certification and release of information in writing within 10 business days of the change.~~ If the application is incomplete when submitted or if for any other reason the authority must request additional information, the ~~30-day~~ 60-day review period will restart when the requested information is received by the authority. The authority may reject an application if any requested information is not provided.

49.11(6) Scoring process. All completed applications will be reviewed and scored. ~~In order for a project to be considered for registration, the application must meet a minimum score as established by the authority and set forth in the current registration application.~~ Scoring of the application will take into account readiness criteria, ~~which may include~~ including, but not limited to, the following:

a. Rehabilitation planning and project readiness. Projects will be scored based on whether the Part 2 application was approved with or without conditions.

b. Secured financing. Weighted preference will be given to projects that have financing or equity or both in place.

c. Steps taken towards ownership. Weighted preference will be given to the projects of applicants that are currently fee simple owners of the property.

d. Local government support. Weighted preference will be given to projects that have received support from their local jurisdiction.

e. Rehabilitation timeline. Weighted preference will be given to projects that will be completed in the shortest amount of time.

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f. Zoning and code review. Weighted preference will be given to the projects of applicants that can demonstrate a determination by the authority having jurisdiction that the project complies with the guidelines for construction permitting.

g. Such other information as the authority may find relevant and request ~~on the registration application.~~

49.11(7) Registration. Upon reviewing and scoring all applications that are part of the application period, the authority may register the qualified rehabilitation projects to the extent sufficient tax credits are available based on the estimated qualified rehabilitation costs identified in the ~~registration~~ Part 2B applications. ~~Only projects that meet the minimum score established by the authority may be registered.~~ As described in rule 261—49.6(404A), in the case of insufficient funding, preference will be given to the projects with the highest registration score based on the criteria in subrule ~~49.13(6)~~ 49.11(6). At the time the project is registered, the authority shall make a preliminary determination as to the amount of tax credits for which the project qualifies. The authority shall make best efforts to notify the applicant within ~~45~~ 60 calendar days after the close of the ~~registration application~~ period as to whether the applicant's project has been registered. The registration notice shall include the amount of the applicant's tentative tax credit award, along with a notice that the amount is a preliminary, nonbinding determination only. ~~The authority will notify applicants whose projects were not registered and state whether the failure to register the project was due to the failure of the project to meet the minimum score, the lack of available tax credits, or another reason. A list of registered applicants will be posted by the authority on the authority's Web site. Small projects may submit Part 2B applications year-round; however, the application must be submitted no later than 12 months after receipt of approval of the Part 2 application.~~

~~**49.11(8) Small project registration application.** The authority may establish for small projects a registration application form and process that differ from the application form and process used for large projects. Small project application forms may be obtained by contacting the authority or by visiting the authority's Web site. Small projects may submit registration applications year-round; however, the registration application must be submitted no later than 180 calendar days after receipt of approval of the Part 2 application from the authority. Small project registration applications will be evaluated on a first-come, first-served basis, subject to the availability of tax credits.~~

ITEM 15. Amend renumbered rule 261—49.12(404A) as follows:

261—49.12(404A) Agreement. Upon successful registration of the project as described in subrule ~~49.13(7) or 49.13(8)~~ 49.11(7), the eligible taxpayer shall have ~~120~~ 90 calendar days or until the end of the fiscal year, whichever is less, to purchase or lease the property, if applicable, and enter into an agreement with the authority. Nothing in these rules shall affect the authority's ability to comply with the annual award limitations described in Iowa Code section 404A.4. ~~A condition precedent to any agreement will be~~ The authority shall not enter an agreement until it receives proof that the eligible taxpayer is the actual fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit. An eligible taxpayer shall not be eligible for historic tax credits unless the eligible taxpayer enters into an agreement with the authority concerning the qualifying rehabilitation project and satisfies the terms and conditions that must be met to receive the tax credit award.

49.12(1) Terms and conditions. The agreement shall contain mutually agreeable terms and conditions, which shall, at a minimum, provide for the following:

a. The maximum amount of the tax credit award. Notwithstanding anything in this chapter to the contrary, no tax credit certificate shall be issued until the authority verifies the amount of final qualified rehabilitation expenditures and compliance with all other requirements of the agreement, Iowa Code chapter 404A, and the applicable rules.

b. The rehabilitation work to be performed. An eligible taxpayer shall perform the rehabilitation work consistent with the U.S. Secretary of the Interior's standards for rehabilitation, as determined by the department.

c. The budget of the qualified rehabilitation project, ~~including the~~. The budget should include projected qualified rehabilitation expenditures, and those expenditures not qualified, and allowable cost

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overruns. The amount of allowable cost overruns provided for in the agreement shall not exceed the following amounts:

(1) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of not more than \$750,000, 15 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(2) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000 but not more than \$6 million, 10 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(3) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$6 million, 5 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

d. A schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), ~~including any funding that originated or will originate from any government, whether federal, state, or local.~~

e. The commencement date.

f. The completion date.

g. The agreement termination date, ~~which shall not be earlier than five years from the date on which the tax credit certificate is issued.~~

h. Such other terms, conditions, representations, and warranties as the authority may determine are necessary or desirable to protect the interests of the state.

49.12(2) Agreement timeline. The commencement date indicated in the agreement shall be no later than the end of the fiscal year in which the agreement is entered into. The completion date indicated in the agreement shall be no later than 36 months from the commencement date. The agreement termination date indicated in the agreement shall not be earlier than five years from the date on which the tax credit certificate is issued.

49.12(2) 49.12(3) Amendments. The authority may for good cause amend an agreement. However, the authority may not amend an agreement to allow cost overruns in excess of the amount described in paragraph 49.14(1)“*c.*” ~~In addition, the commencement date, completion date, and agreement termination date may not be amended if such an amendment would violate the statutorily prescribed time limits as described in Iowa Code section 404A.3(3).~~ 49.12(1)“*c.*” Any amendment approved by the authority shall be signed by both parties.

49.12(3) Authority. ~~Only the director or chief operating officer may enter into agreements on behalf of the authority. Any agreement entered into on behalf of the authority by a person other than the director or chief operating officer shall be void.~~

ITEM 16. Amend renumbered rule 261—49.13(404A) as follows:

261—49.13(404A) Part 3 application—request for certification of completed work and verification of qualified rehabilitation expenditures. Part 3 of the application is used to determine whether the project has complied with the terms of the agreement as well as with applicable laws, rules and regulations, including federal standards.

49.13(1) Submission period. The fully completed Part 3 application must be submitted no more than 180 calendar days after the project completion date as defined in the agreement. The authority may extend this deadline under extenuating circumstances.

49.13(2) Required information. The Part 3 application must include the following information:

a. Certification that the eligible taxpayer is the fee simple owner or is qualified for the federal rehabilitation credit and has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit.

b. Using the qualified rehabilitation expenditures schedule form provided by the authority, a schedule of total expenditures for the project, which shall identify in detail the final qualified

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rehabilitation expenditures and those expenditures that are not qualified. The qualified rehabilitation expenditures schedules form may be obtained by contacting the authority or by visiting the authority's ~~Web-site~~ website.

c. A schedule of all funding sources used to finance the project, including those funding sources used to finance or reimburse both qualified rehabilitation expenditures and expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A), ~~including any funding that originated from any government, whether federal, state, or local.~~

d. CPA examination.

(1) An eligible taxpayer shall engage a certified public accountant authorized to practice in this state to conduct an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. Upon completion of the qualified rehabilitation project, the eligible taxpayer shall submit the examination to the authority, along with a statement of the amount of final qualified rehabilitation expenditures and any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied.

(2) The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the qualified rehabilitation expenditures claimed are eligible pursuant to the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A in all material respects. The documents reviewed by the CPA should be readily available to the authority upon request. The applicant should generally be able to provide the requested documents within ~~40~~ ten business days of a request from the authority.

(3) The examination requirement is waived for an eligible taxpayer if the final qualified rehabilitation expenditures of the qualified rehabilitation project, as verified by the authority, do not exceed \$100,000 and the qualified rehabilitation project is funded exclusively by private funding sources. The authority reserves the right to request any additional information necessary to verify the final qualified rehabilitation expenditures and, if deemed necessary by the authority, to require that such an eligible taxpayer engage a CPA to conduct an examination of the project pursuant to 49.15(23) "~~d.~~" paragraph 49.13(2) "d."

e. Any other information deemed necessary by the authority in order to verify that all requirements of the agreement, Iowa Code chapter 404A, and all rules adopted pursuant to Iowa Code chapter 404A have been satisfied or any other information the authority may require for program evaluation.

f. Election to receive either a refundable or a nonrefundable tax credit. ~~The taxpayer's election does not impact a transferee's ability to make its own election upon transfer. For information on transferring tax credits, see department of revenue rules 701—42.55(404A,422) and 701—52.48(404A,422).~~

~~g. Any information the authority may require for program evaluation.~~

49.13(3) Review period. The authority will make best efforts to review Part 3 applications within 60 calendar days after the application is filed. However, this time frame is not binding upon the authority. The authority, in consultation with SHPO, shall review the information submitted by the eligible taxpayer and determine whether a tax credit certificate may be issued, including whether the eligible taxpayer has complied with federal standards. ~~See rule 261—49.17(404A) for more information on certificate issuance.~~

ITEM 17. Amend renumbered rule 261—49.15(404A) as follows:

261—49.15(404A) Compliance.

49.15(1) Annual reports. The eligible taxpayer shall, for the length of the agreement, annually certify to the authority compliance with the requirements of the agreement. ~~The certification shall be due each year on the anniversary of the date upon which the agreement was entered into. Instructions and forms may be obtained by contacting the authority or by visiting the authority's Web site.~~

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49.15(2) *Burden of proof.* The eligible taxpayer shall have the burden of proof to demonstrate to the authority that all requirements of the agreement, Iowa Code chapter 404A, and the applicable rules are satisfied. The taxpayer shall notify the authority in a timely manner of any changes in the qualification of the rehabilitation project or in the eligibility of the taxpayer to claim the tax credit provided under this chapter, or of any other change that may have a negative impact on the eligible taxpayer's ability to successfully complete any requirement under the agreement.

49.15(3) *Events of default, revocation, recapture.* If, after entering into the agreement but before a tax credit certificate is issued, the eligible taxpayer or the qualified rehabilitation project no longer meets the requirements of the agreement, Iowa Code chapter 404A, and the applicable rules, the authority may find the taxpayer in default and may revoke the tax credit award.

a. Voluntary abandonment. ~~An applicant may choose to irrevocably decline the tax credit that is the subject of the agreement at any time after the agreement is entered into.~~ To irrevocably decline the tax credit, the applicant shall send a letter to the authority stating the applicant's decision to irrevocably decline the tax credit. The authority shall ~~notify the applicant by certified U.S. mail or courier acknowledge, in writing,~~ that the tax credit has been irrevocably declined. The tax credit shall be reallocated to the extent permitted by Iowa Code section 404A.4. If the applicant wishes to apply for a tax credit on the same qualified rehabilitation project at a later date, the applicant must complete the application process as though the project is a new project.

b. Revocation and recapture for prohibited activity; liability of certain transferees. If Pursuant to Iowa Code section 404A.3(4) "c," if an eligible taxpayer obtains a tax credit certificate from the authority by way of a prohibited activity, the eligible taxpayer and any transferee shall be jointly and severally liable to the state for the amount of the tax credits so issued, interest and penalties allowed under Iowa Code chapter 422, and reasonable attorney fees and litigation costs, except that the liability of the transferee shall not exceed an amount equal to the amount of the tax credits acquired by the transferee. ~~The department of revenue, upon notification or discovery that a tax credit certificate was issued to an eligible taxpayer by way of a prohibited activity, shall revoke any outstanding tax credit and seek repayment of the value of any tax credit already claimed, and the failure to make such a repayment may be treated by the department of revenue in the same manner as a failure to pay the tax shown due or required to be shown due with the filing of a return or deposit form. A qualifying transferee is not subject to the liability, revocation, and repayment imposed under this paragraph. For purposes of this paragraph:~~

(1) ~~"Control"~~ means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

1. ~~Owns, controls, or has the power to vote 50 percent or more of any class of voting securities or voting membership interests of another person.~~

2. ~~Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.~~

3. ~~Has the power to exercise a controlling influence over the management or policies of another person.~~

(2) ~~"Prohibited activity"~~ means a breach or default under the agreement with the authority, the violation of any warranty provided by the eligible taxpayer to SHPO or the authority, the claiming of a tax credit issued under this chapter for expenditures that are not qualified rehabilitation expenditures, the violation of any requirements of Iowa Code chapter 404A or rules adopted pursuant to Iowa Code chapter 404A, misrepresentation, fraud, or any other unlawful act or omission.

(3) ~~"Qualifying transferee"~~ means a transferee who acquires a tax credit certificate issued under this chapter for value, in good faith, without express or implied notice of a prohibited activity of the eligible taxpayer who was originally issued the tax credit, and without express or implied notice of any other claim to or defense against the tax credit, and which transferee is not associated with the eligible taxpayer by being one or more of the following:

1. ~~An owner, member, shareholder, or partner of the eligible taxpayer who directly or indirectly owns and controls, in whole or in part, the eligible taxpayer.~~

2. ~~A director, officer, or employee of the eligible taxpayer.~~

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3. ~~A relative of the eligible taxpayer or a person listed in paragraph “1” or “2” of this subparagraph or, if the eligible taxpayer or an owner, member, shareholder, or partner of the eligible taxpayer is a legal entity, the natural persons who ultimately own such legal entity.~~

4. ~~A person who is owned or controlled, in whole or in part, by a person listed in paragraph “1” or “2” of this subparagraph.~~

(4) ~~“Relative” means an individual related by consanguinity within the second degree as determined by common law, a spouse, or an individual related to a spouse within the second degree as so determined, and includes an individual in an adoptive relationship within the second degree.~~

ITEM 18. Amend renumbered rule 261—49.16(404A) as follows:

261—49.16(404A) Certificate issuance; claiming the tax credit. After determining whether the terms of the agreement, Iowa Code chapter 404A, and the applicable rules have been met, the authority shall issue a tax credit certificate to the eligible taxpayer stating the amount of tax credit under Iowa Code section 404A.2 the eligible taxpayer may claim, or the authority shall issue a notice that the eligible taxpayer is not eligible to receive a tax credit certificate. ~~The authority shall issue the tax credit certificate or the notice not later than 60 days following the completion of the examination review, if applicable, and the verifications required under this rule.~~ To receive the tax credit, an eligible taxpayer shall file a claim in accordance with any applicable administrative rules adopted by the department of revenue. Notwithstanding the foregoing, the eligibility of the tax credit remains subject to audit by the department of revenue in accordance with Iowa Code chapters 421 and 422. ~~For information on how to claim the tax credit, see department of revenue rules 701—42.55(404A,422), 701—52.48(404A,422), and 701—58.10(404A,422).~~

ITEM 19. Amend renumbered rule 261—49.17(303,404A) as follows:

261—49.17(303,404A) Appeals. ~~Any person wishing to contest an application denial, the amount of the tax credit award, award revocation, or any authority action that entitles the person to a contested case proceeding shall file an appeal, in writing, within 30 days of the action giving rise to the appeal. Any person who does not seek an appeal within 30 days of the action that gives rise to a right to a contested case proceeding shall be precluded from challenging the action. Appeals will be governed by the procedures set forth in this rule, together with the process set out in Iowa Code sections 17A.10 to 17A.19. Challenges to an action by the department of revenue related to tax credit transfers, claiming of tax credits, tax credit revocation, or repayment or recovery of tax credits must be brought pursuant to department of revenue 701—Chapter 7.~~

49.17(1) Contents. ~~The appeal shall contain the following in separate numbered paragraphs:~~

~~a. A statement of the authority action giving rise to the appeal.~~

~~b. The date of the authority action giving rise to the appeal.~~

~~c. Each error alleged to have been committed, listed as a separate paragraph. For each error listed, an explanation of the error and all relevant facts related to the error shall be provided.~~

~~d. Reference to the particular statutes, rules, or agreement terms involved, if known.~~

~~e. A statement setting forth the relief sought.~~

~~f. The signature of the person or that person’s representative and the mailing addresses, telephone numbers, and e-mail addresses of the person and the person’s representative.~~

49.17(2) Contested case proceedings. ~~The presiding officer in any contested case proceeding shall be an administrative law judge who specializes in tax matters.~~

[Filed 11/18/22, effective 1/18/23]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6726C**EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to open enrollment**

The State Board of Education hereby amends Chapter 6, “Appeal Procedures,” Chapter 17, “Open Enrollment,” and Chapter 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7(5) and 2022 Iowa Acts, House File 2589.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 282.18 and 290.1 as amended by 2022 Iowa Acts, House File 2589.

Purpose and Summary

2022 Iowa Acts, House File 2589, division VI, eliminates open enrollment deadlines, eliminates remaining open enrollment appeal rights to the State Board, and makes conforming changes, including changes to athletic eligibility. The division is effective upon enactment. This rule making reflects the changes made by House File 2589.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6482C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 6483C** on the same date.

A public hearing was held on September 13, 2022, at 9:30 a.m. in the State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. One person offered comment on behalf of two organizations: the Urban Education Network and the Rural School Advocates of Iowa. In addition, several other public comments were received. The Department’s responses to the comments are as follows:

Item 2. One commenter noted that a cross-reference in subrule 17.3(2) to rule 441—17.5(282), which is to be rescinded, should be deleted. The reference to that rule was already stricken in the Adopted and Filed Emergency **ARC 6483C**. No change is necessary. The commenter also suggested that additional district duties from elsewhere in Chapter 17 should be consolidated in subrule 17.3(2). The suggested change makes sense; however, the Department will defer it to a comprehensive rewrite of this chapter as part of the five-year rules review. The entire chapter would benefit from resequencing and reorganization.

Item 7. Based on staff review and to be consistent with the statutory amendment, the words “eligible to be” have been added so that a parent of a student who is in an early childhood special education program may elect open enrollment at any time, regardless of when the student was determined eligible for special education.

Item 8. One commenter noted that initial placement of a prekindergarten student in special education is never relevant for determining “good cause” for high school athletic eligibility. The language in the rule was taken directly from the statute; however, the statutory language is an artifact from when “good cause” had a broader definition. To be consistent with the statute and to be practical, the reference to prekindergarten students becoming eligible for special education has been removed and a “catch-all” clause has been included at the end of the paragraph.

Item 9. Two commenters expressed approval that the rule making maintained language that a petition for attendance in an alternate receiving district is effective at the start of the next school year. Requests

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for open enrollment under Iowa Code section 282.18 and Chapter 17 are for a minimum of one year at a time; however, since a parent may elect open enrollment at any time during the school year, Item 9 has been revised to refer to calendar years, not school years.

Both commenters asked for rules language to prevent parents from ending open enrollment, returning to the district of residence, and seeking open enrollment to a new district before the expiration of one year. While understanding the commenters' concerns about difficulties for school administrators and business officials, the Department has determined there is no statutory authority for this restriction. No changes have been made.

Item 10. One commenter requested that the term "timely" be stricken because there are no more deadlines. The Department has made that change. Additionally, based on Department staff review, certain references to attendance in another school district in Item 10 and Item 11 were determined to be superfluous and have been stricken.

Item 11. Two commenters noted that references to eliminating kindergarten students from the provisions of subrule 17.8(7) are inconsistent with Senate File 2589. The commenters' concerns are valid, and the sentence has been stricken.

Item 13. One commenter suggested that language regarding the teacher leadership supplement is now superfluous and "code clutter" because all districts receive such funding. The point is sound; however, the language is from Iowa Code section 282.18(7)"b." To address this concern, the Department has added a cross-reference to the relevant Iowa Code language.

Items 14 and 15. These items received no comments; however, they have been amended to change the term "non-English speaking" to "English learner" in accordance with 2022 Iowa Acts, Senate File 2128.

Item 16. A Department staff review of the emergency rules concluded this item could be simplified by adding "for any reason" to the first sentence and striking the second sentence as surplus. The Department has made this change.

Item 17. Two commenters noted that the reference to the October 1 count date in this item is now irrelevant. The Department agrees. Since no other content remains in the subrule, it has been rescinded and reserved.

Adoption of Rule Making

This rule making was adopted by the State Board on November 16, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. According to the Notes on Bills and Amendments for 2022 Iowa Acts, House File 2589, "Open enrollment applications and transportation reimbursements are expected to increase; however, the extent to which each district may experience a fiscal impact cannot be estimated at this time."

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's

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meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 18, 2023, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Amend **281—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 256.7(6), 275.16, ~~282.18, 282.18(5), 282.32, 285.12,~~ and Iowa Code chapter 290 and chapter 17A.

ITEM 2. Amend subrule 17.3(1) as follows:

17.3(1) Parent/guardian responsibilities. ~~On or before March 1 of the school year preceding the school year for which open enrollment is requested,~~ a A parent/guardian shall formally notify both the district of residence and the receiving district of the request for open enrollment. The request for open enrollment shall be made on forms provided by the department of education. ~~Failure by the parent to send the form to the resident district and receiving district by the deadline may cause the application to be considered untimely.~~ The parent/guardian is required to indicate on the form if the request is for a pupil requiring special education, as provided by Iowa Code chapter 256B. The forms for open enrollment application are available from each public school district and area education agency and from the state department of education.

ITEM 3. Amend subrule 17.3(2) as follows:

17.3(2) School district responsibilities.

a. The board of the resident district shall take no action on an open enrollment request except for a request made under rule ~~281—17.5(282) or 281—17.14(282).~~

b. The board of the receiving district shall act on an open enrollment request ~~no later than June 1 of the school year preceding the school year for which the request is made.~~

(1) The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within five days of board action.

(2) As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, applications ~~filed on or before March 1.~~ The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline, but the board of the receiving district shall take action to approve the request if good cause exists. The board shall have the discretion to determine the scope of the authorization. The authorization may be for regular applications filed on or before March 1, good cause applications, and kindergarten applications filed on or before September 1, or any combination that the board determines. ~~The same timelines for approval, forwarding, and notification shall apply.~~

c. The parent/guardian may withdraw an open enrollment request any time prior to the ~~first day of school in the resident district board's action on the application.~~ After the first day of school, an open enrollment request can only be changed during the term of the approval by the procedures of subrules ~~17.8(4), 17.8(5), 17.8(6), and 17.8(7).~~

d. The board of the receiving district shall comply with the provisions of rule ~~281—17.11(282)~~ if the application for open enrollment is for a pupil requiring special education as provided by Iowa Code chapter 256B.

e. Notification to parents.

(1) By September 30 of each school year, all districts shall notify parents of the following:

1. ~~Open enrollment deadlines;~~

2. 1. Transportation assistance; and

3. ~~That within 30 days of a denial of an open enrollment request by a district board of education, the parent/guardian may file an appeal with the state board of education only if the open enrollment~~

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~~request was based on repeated acts of harassment or a serious health condition of the pupil that the district cannot adequately address; and that all other denials must be appealed to the district court in the county in which the primary business office of the district is located; and~~

4. 2. Possible loss of athletic eligibility for open enrollment pupils.

(2) This notification may be published in a school newsletter, a newspaper of general circulation, a website, or a parent handbook provided to all patrons of the district. This information shall also be provided to any parent/guardian of a pupil who enrolls in the district during the school year.

ITEM 4. Amend subrule 17.3(3) as follows:

17.3(3) Exception to process when resident district is under court-ordered desegregation. If the resident district has a court-ordered desegregation plan, the request for open enrollment shall be filed solely with the district of residence on or before March 1 of the school year preceding the school year for which open enrollment is requested. The superintendent of the resident district may deny a request under this subrule unless the request is made on behalf of a student whose sibling already actively participates in open enrollment to the same receiving district to which open enrollment is sought for this student. A denial by the superintendent may be appealed to the board of the district in which the request was denied. A decision of the local board to uphold the denial may only be appealed to the district court in the county in which is located the primary business office of the district that upheld the denial of the open enrollment request.

ITEM 5. Rescind and reserve rule **281—17.4(282)**.

ITEM 6. Rescind and reserve rule **281—17.5(282)**.

ITEM 7. Amend rule 281—17.7(282) as follows:

281—17.7(282) Open enrollment for kindergarten or certain prekindergarten programs. While the regular time frame in requesting open enrollment is that an application should be made no later than March 1 of the school year preceding the school year for which the enrollment is requested, a A parent/guardian requesting to enroll of a kindergarten pupil in a district other than the district of residence or a parent/guardian of a prekindergarten student enrolled in a special education program and eligible to be included in the resident school district's basic enrollment under Iowa Code section 257.6(1) "a"(1) may make such application on or before September 1 of that school year request to enroll the pupil or student in a district other than the district of residence. In considering an application for a kindergarten pupil under this rule, the resident and the receiving district are not precluded from administering board-adopted policies related to insufficient classroom space, the requirements of rule 281—17.11(282), or the requirements of a desegregation order.

As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, applications filed on or before September 1 under this rule. The timelines established in rule 281—17.4(282) shall apply to applications for a pupil under this rule.

ITEM 8. Amend paragraph **17.8(2)“k”** as follows:

k. Participates in open enrollment because of circumstances that meet the definition of “good cause,” under rule 281—17.4(282). For purposes of this paragraph, “good cause” means a change in a child’s residence due to a change in family residence; a change in a child’s residence from the residence of one parent or guardian to the residence of a different parent or guardian; a change in the state in which the family residence is located; a change in a child’s parents’ marital status; a guardianship or custody proceeding; placement in foster care; adoption; participation in a foreign exchange program; participation in a substance abuse or mental health treatment program; a change in the status of a child’s resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school; revocation of a charter school contract as provided in Iowa Code section 256E.10 or 256F.8; the failure of negotiations for a whole grade sharing agreement, reorganization plan, or dissolution agreement; the rejection of a current whole grade sharing agreement or reorganization plan; or any other reason specified in Iowa Code section 282.18(11) “a”(9).

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ITEM 9. Amend subrule 17.8(4) as follows:

17.8(4) *Petition for attendance in an alternative receiving district.* Once the pupil of a parent/guardian has been accepted for open enrollment, attendance in an alternative receiving district under open enrollment can be initiated by filing a petition for change with the receiving district. ~~The petition shall be filed by the parent/guardian with the receiving district on or before March 1 of the year preceding the school year for which the change is requested.~~ The timelines and notification requirements for such a request shall be the same as outlined in subrule 17.3(2). If the request is approved, the alternative district shall send notice of this action to the parent/guardian, to the original receiving district, and to the resident district of the pupil. Petitions for change shall be ~~effectuated at the start of the next school~~ for not less than one year.

~~As an alternative procedure, the receiving and alternative receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a written request for such change which is approved by the two boards. The parent/guardian and the resident district board shall be notified of the approval and the date for change in open enrollment within 15 days of the mutual agreement action of the receiving and alternative receiving boards.~~

A pupil in good standing may return to the district of residence at any time following written notice from the parent/guardian to both the resident district and the receiving district.

ITEM 10. Amend subrule 17.8(6) as follows:

17.8(6) *Change in residence when participating in open enrollment.* If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian shall have the option to leave the pupil in the receiving district under open enrollment, ~~to open enroll to another school district,~~ or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the district of residence, as determined on the date specified in Iowa Code section 257.6(1), shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year. The new district of residence shall be responsible for these payments during succeeding years of the agreement.

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian shall write a letter, delivered by mail or by hand ~~on or before the date specified in Iowa Code section 257.6(1),~~ to notify the original resident district, the new resident district, and the receiving district of this decision.

~~Timely requests~~ Requests under this rule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2).

ITEM 11. Amend subrule 17.8(7), introductory paragraph, as follows:

17.8(7) *Change in residence when not participating in open enrollment.* If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program ~~or to open enroll to another school district. This option is not available to the parent/guardian of a student who is entering kindergarten for the first time.~~ The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. ~~This request shall be made on or before the date specified in Iowa Code section 257.6(1).~~ Timely requests Requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is on or after the date specified in Iowa Code section 257.6(1), the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

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ITEM 12. Rescind and reserve subrule **17.8(9)**.

ITEM 13. Amend subrule 17.10(1) as follows:

17.10(1) Full-time pupils. ~~Unless otherwise agreed to in the mediation under paragraph 17.4(6) “b,” for full-time pupils, the~~ The resident district shall pay each year to the receiving district an amount equal to the sum of the state cost per pupil for the previous year; plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4; plus either the teacher leadership supplement state cost per pupil for the previous year as provided in Iowa Code section 257.9(11) or the teacher leadership supplement foundation aid allocation for fiscal year 2017 as provided in Iowa Code section 284.13(1) “e,” whichever the district received, if both the district of residence and the receiving district received either of the supplements pursuant to Iowa Code section 282.18(7) “b”(1). If the pupil participating in open enrollment is also an eligible pupil under Iowa Code section 261E.6 (postsecondary enrollment options program), the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

ITEM 14. Amend subrule 17.10(2) as follows:

17.10(2) Dual enrolled pupils. ~~Unless otherwise agreed to in the mediation under paragraph 17.4(6) “b,” for~~ For pupils who receive competent private instruction and are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times the state cost per pupil for the previous year plus any moneys received for the pupil as a result of ~~non-English speaking~~ English learner weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades nine through twelve shall be counted by the receiving district in the same manner as a shared-time pupil under Iowa Code section 257.6(1) “c.”

ITEM 15. Amend subrule 17.10(3) as follows:

17.10(3) Home school assistance program pupils. ~~Unless otherwise agreed to in the mediation under paragraph 17.4(6) “b,” for~~ For pupils who receive competent private instruction and are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .3 times the state cost per pupil under Iowa Code chapter 257 for the previous year plus any moneys received for the pupil as a result of ~~non-English speaking~~ English learner weighting provided by Iowa Code section 280.4.

ITEM 16. Amend subrule 17.10(6) as follows:

17.10(6) Partial-year situations. ~~In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of cost per pupil will be prorated. If a pupil participating in open enrollment attends school in the receiving district for any reason for less than a full school year, payment from the district of residence to the receiving district shall be prorated on a per diem basis.~~

ITEM 17. Rescind and reserve subrule **17.10(7)**.

ITEM 18. Amend paragraph **36.15(4)“k”** as follows:

k. The student participates in open enrollment because of circumstances that meet the definition of “good cause” under ~~Iowa Code section 282.18(4) “b”~~ 281—paragraph 17.8(2) “k”; or

[Filed 11/16/22, effective 1/18/23]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6724C**EDUCATION DEPARTMENT[281]****Adopted and Filed****Rule making related to English learners**

The State Board of Education hereby amends Chapter 19, “Charter Schools,” Chapter 23, “Adult Education and Literacy Programs,” Chapter 41, “Special Education,” Chapter 60, “Programs for Students of Limited English Proficiency,” Chapter 67, “Educational Support Programs for Parents of At-Risk Children Aged Birth Through Five Years,” Chapter 68, “Iowa Public Charter and Innovation Zone Schools,” Chapter 77, “Standards for Teacher Intern Preparation Programs,” Chapter 79, “Standards for Practitioner and Administrator Preparation Programs,” Chapter 98, “Financial Management of Categorical Funding,” and Chapter 120, “Early Access Integrated System of Early Intervention Services,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, Senate File 2128.

Purpose and Summary

This rule making eliminates outdated references to students as “limited English proficient” in favor of the more current term “English learner.” This rule making, for consistency and simplicity, also replaces “English language learner” with “English learner.”

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6584C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on November 16, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s

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meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on January 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **19.7(1)“I”** as follows:

l. Plans for identifying and serving students with disabilities, students who are ~~limited English proficient~~ English learners, students who are academically failing or below grade level, and gifted students, including but not limited to compliance with applicable laws and regulations.

ITEM 2. Amend paragraph **19.8(1)“I”** as follows:

l. Plans for identifying and serving students with disabilities, students who are ~~limited English proficient~~ English learners, students who are academically failing or below grade level, and gifted students, including but not limited to compliance with applicable laws and regulations.

ITEM 3. Amend paragraph **19.10(1)“c”** as follows:

c. Achievement gaps in both proficiency and growth on statewide outcome assessments between specified populations or groups of students, including groups based on gender, race, poverty, special education status, ~~limited English proficiency~~ English learner status, and gifted status.

ITEM 4. Amend subparagraph **23.3(2)“a”(2)** as follows:

(2) Programs for adults of ~~limited English proficiency~~ who are English learners;

ITEM 5. Amend rule 281—41.27(256B,34CFR300) as follows:

281—41.27(256B,34CFR300) Limited English proficient. “Limited English proficient” has the meaning given the term “English learner” in Section 8101 of the ESEA.

ITEM 6. Amend **281—Chapter 60**, title, as follows:

PROGRAMS FOR STUDENTS OF ~~LIMITED ENGLISH PROFICIENCY~~ WHO ARE ENGLISH LEARNERS

ITEM 7. Amend rule 281—60.1(280) as follows:

281—60.1(280) Scope. These rules apply to the identification of students and provision of programs for ~~limited English proficient~~ students who are English learners and to the application procedures for securing fiscal support.

ITEM 8. Adopt the following new definition of “English learner” in rule **281—60.2(280)**:

“*English learner*” means a student whose language background is in a language other than English, and the student’s proficiency in English is such that the probability of the student’s academic success in an English-only classroom is below that of an academically successful peer with an English language background. Each English learner shall be identified as either an intensive student or an intermediate student.

ITEM 9. Rescind the definition of “Limited English proficient” in rule **281—60.2(280)**.

ITEM 10. Amend rule **281—60.2(280)**, definitions of “Intensive student” and “Intermediate student,” as follows:

“*Intensive student*” means ~~a limited English proficient student~~ an English learner who, even with support, is not proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

“*Intermediate student*” means ~~a limited English proficient student~~ an English learner who, either with or without support, approaches being proficient under the state’s English language proficiency standards, as measured by the state-adopted assessment of English language proficiency.

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ITEM 11. Amend subrule 60.3(3) as follows:

60.3(3) *Limited English proficient student learner placement.* Placement of students identified as ~~limited English proficient learners~~ shall be in accordance with the following:

a. No change.

b. ~~Limited English proficient~~ learner program placement.

(1) Students enrolled in a program for ~~limited English proficient students~~ learners shall receive language instruction with other ~~limited English proficient students~~ learners with similar language needs.

(2) to (5) No change.

ITEM 12. Amend subrule 60.3(4) as follows:

60.3(4) *Medium of instruction.* Instruction in all secular subjects taught in both public and nonpublic schools shall be in the English language, except when the use of a world language is deemed appropriate because the student is ~~limited English proficient~~ an English learner. When the student is ~~limited English proficient~~ an English learner, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional bilingual instruction until the student is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language.

ITEM 13. Amend subrule 60.3(5) as follows:

60.3(5) *Research-based educational and instructional models.* Districts shall utilize research-based educational and instructional models as defined in rule 281—60.2(280) with ~~limited English proficient students~~ English learners so that such students may acquire English proficiency and meet high academic standards.

ITEM 14. Amend rule 281—60.4(280) as follows:

281—60.4(280) Department responsibility. The department of education shall provide technical assistance to school districts, including advising and assisting schools in planning, implementation, and evaluation of programs for ~~limited English proficient students~~ English learners.

60.4(1) to 60.4(3) Rescinded IAB 2/2/94, effective 3/9/94.

ITEM 15. Amend subrule 60.6(1) as follows:

60.6(1) *Weighting.* A weighting is included in the weighted enrollment of the school district of residence for a period not exceeding five years to provide funds for the excess costs of instruction of ~~limited English proficient students~~ English learners above the costs of instruction of pupils in a regular curriculum.

a. A student may be included for weighting if the student meets the definition of a ~~limited English proficient student~~ as either an intensive student or an intermediate student and the student is being provided instruction related to limited English proficiency pursuant to this chapter that is above the level of instruction provided to pupils in the regular curriculum.

b. and *c.* No change.

ITEM 16. Amend subrule 60.6(2) as follows:

60.6(2) *Supplemental aid or modified supplemental amount.* In addition to weighting, the school budget review committee (SBRC) may grant supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting or for costs in excess of the weighting to provide instruction to ~~limited English proficient students~~ English learners above the costs of regular instruction.

a. A school district of residence may apply to the SBRC by the date specified in rule 289—6.3(257) for supplemental aid or a modified supplemental amount for an unusual need for funding beyond the amount generated from weighting for students identified as ~~limited English proficient~~ English learners who are provided instruction beyond the regular instruction. The eligible supplemental aid or modified supplemental amount will be calculated as the total actual ~~limited English proficient~~ English learner program (more commonly referred to as “English language learner program”) expenditures for the previous year, reduced by the ~~limited English proficient~~ English learner funding

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generated in the previous budget year based on the ~~limited-English-proficient~~ English learner count on the certified enrollment in the previous year, and reduced by any other grants, carryover, or other resources provided to the district for this program.

b. A district of residence may apply to the SBRC for supplemental aid or a modified supplemental amount for an unusual need to continue funding beyond the five years of weighting no later than December 1 following the date specified in Iowa Code section 257.6(1) for the certified enrollment. The supplemental aid or modified supplemental amount will be calculated by multiplying the number of resident students identified as ~~limited-English-proficient~~ English learners who are provided instruction beyond the regular instruction, and who are being served beyond the five years of weighting on the certified enrollment, by the weighting provided under subrule 60.6(1), multiplied by the district cost per pupil in the current year.

c. No change.

The SBRC may require the district to appear at a hearing to discuss its request for supplemental aid or a modified supplemental amount.

ITEM 17. Amend subrule 60.6(3) as follows:

60.6(3) *Appropriate expenditures.* Appropriate expenditures for the ~~limited-English-proficiency~~ English learner program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures are delineated in 281—Chapter 98.

ITEM 18. Amend subrule 60.6(5) as follows:

60.6(5) *Financial management.* ~~Limited-English-proficient~~ English learner funding is categorical funding and follows the general provisions in 281—Chapter 98.

ITEM 19. Amend subrule 60.6(6) as follows:

60.6(6) *Annual reporting.* Districts shall include and identify the detail of financial transactions related to ~~limited-English-proficient~~ English learner resources, expenditures, and ~~carryforward~~ carryforward balances on their certified annual report. School districts shall use the account coding appropriate to the ~~limited-English-proficient~~ English learner program as defined by Uniform Financing Accounting for Iowa School Districts and AEAs. Each district shall submit its certified annual report following the close of the fiscal year but no later than September 15.

ITEM 20. Amend rule 281—67.5(279) as follows:

281—67.5(279) *Secondary eligibility.* The available funds shall be directed to serve parents of at-risk children aged birth through five years when children qualify in one or more of the secondary eligibility categories as follows:

1. to 4. No change.
5. Children residing in a household where one or more of the parents or guardian:
 - Has not completed high school;
 - Has been identified as a substance abuser;
 - Has been identified as chronically mentally ill;
 - Is incarcerated;
 - Is illiterate;
 - Is a child abuser or spouse abuser; or
 - ~~Has limited-English-proficiency~~ Is an English learner.
6. No change.

ITEM 21. Amend subparagraph **68.4(2)“d”(2)** as follows:

(2) The educational program and curriculum utilizing different and innovative instructional methodologies that reflect sensitivity to gender, racial, ethnic and socioeconomic backgrounds. Services to be offered to all prospective students, including students with disabilities pursuant to the requirements of 281—Chapter 41, ~~English Language Learners (ELL)~~ learners, and other students considered “at risk,” must also reflect the same sensitivities.

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ITEM 22. Amend rule 281—68.11(256F,83GA,SF2033) as follows:

281—68.11(256F,83GA,SF2033) Application process. An innovation zone consortium shall submit an application to establish an innovation zone school to the state board no later than December 15 immediately preceding the school year for which the innovation zone school desires to start operations. The application shall demonstrate the support, as of approximately the date of submission of the application, of at least 50 percent of the teachers employed at the proposed innovation zone school and at least 50 percent of the affected family units. The application shall set forth the manner in which the innovation zone school will comply with federal and state laws regarding instruction to students who are English language learners and regarding the National School Lunch Act and Child Nutrition Act.

ITEM 23. Amend paragraph 77.10(7)“d” as follows:

d. English language learners; and

ITEM 24. Amend paragraph 79.15(2)“e” as follows:

e. English language learners.

ITEM 25. Amend subrule 79.15(3) as follows:

79.15(3) Each teacher candidate demonstrates competency in literacy, to include reading theory, knowledge, strategies, and approaches; and integrating literacy instruction into content areas. The teacher candidate demonstrates competency in making appropriate accommodations for students who struggle with literacy. Demonstrated competency shall address the needs of all students, including but not limited to, students with disabilities; students who are at risk of academic failure; students who have been identified as gifted and talented or ~~limited English proficient~~ English learners; and students with dyslexia, whether or not such students have been identified as children requiring special education under Iowa Code chapter 256B. Literacy instruction shall include evidence-based best practices, determined by research, including that identified by the Iowa reading research center.

ITEM 26. Amend paragraph 79.17(6)“e” as follows:

e. English language learners.

ITEM 27. Amend paragraph 79.21(2)“e” as follows:

e. English language learners.

ITEM 28. Amend rule 281—98.16(257,280) as follows:

281—98.16(257,280) Limited English proficiency (LEP) English learner weighting. ~~Limited English proficiency~~ English learner weighting provides funding in addition to the student count that generates general purpose revenues and is for the purpose of providing funding for the excess costs of instruction of ~~limited English proficiency students~~ English learners above the costs of instruction of pupils in a regular curriculum. In addition, the school budget review committee may grant a modified supplemental amount to continue funding of the excess costs beyond the five years of weighting. Funding for the ~~limited English proficiency~~ English learner weighting and the modified supplemental amount for ~~limited English proficiency~~ English learner programs are both categorical funding and may have different restrictions than the federal ~~limited English proficiency~~ English learner funding.

98.16(1) Appropriate uses of categorical funding. Appropriate uses of funding for the ~~limited English proficiency~~ English learner program are those that are direct costs of providing instruction which supplement, but do not supplant, the costs of the regular curriculum. These expenditures include, but are not limited to, salaries and benefits of teachers and paraeducators; instructional supplies, textbooks, and technology; classroom interpreters; support services to students served in ~~limited English proficiency~~ English learner programs above the services provided to pupils in regular programs; support services to instructional staff such as targeted professional development, curriculum development or academic student assessment; and support services provided to parents of ~~limited English proficiency students~~ English learners and community services specific to ~~limited English proficiency~~ English learners.

98.16(2) Inappropriate uses of categorical funding. Inappropriate uses of funding for the ~~limited English proficiency~~ English learner program include, but are not limited to, indirect costs, operational

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or maintenance costs, capital expenditures other than equipment, student transportation, administrative costs, or any other expenditures not directly related to providing the ~~limited English proficiency~~ English learner program beyond the scope of the regular classroom.

ITEM 29. Amend subrule 120.25(1), introductory paragraph, as follows:

120.25(1) *Limited English proficiency.* “Native language,” when used with respect to an individual who is limited English proficient or LEP (as that term is defined in Section 602(18) of the Act and in rule 281—41.27(256B,34CFR300)), means:

[Filed 11/16/22, effective 1/18/23]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6725C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to charter school funding

The State Board of Education hereby amends Chapter 19, “Charter Schools,” Iowa Administrative Code.

Legal Authority for Rule Making

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

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2575.

Purpose and Summary

This rule making revises charter school funding in accordance with the requirements of 2022 Iowa Acts, House File 2575.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6485C**. This rule making was also adopted and filed emergency and published in the Iowa Administrative Bulletin as **ARC 6486C** on the same date. A public hearing was held on September 13, 2022, at 10 a.m. at State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. One school leader appeared at the Administrative Rules Review Committee’s September meeting to discuss this rule making. The comments received from the school leader, which concerned the charter school funding formula as amended by House File 2575, were considered by the Department. Because the concerns expressed at the Administrative Rules Review Committee concerned the underlying statute and the rule making reflects the underlying statute, no changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the State Board on November 16, 2022.

Fiscal Impact

This rule making has the following fiscal impact to the State of Iowa, according to the Notes on Bills and Amendments: “An estimated 275 students will attend a charter school who were not included in

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the actual enrollment of the district of residence for FY 2023. The Department of Education will pay to the charter schools an estimated \$2,600,000 from the General Fund standing unlimited appropriation for charter school funding during FY 2023.” Based on enrollment estimates at the start of the school year, the current estimated fiscal impact is \$764,000.

Jobs Impact

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

Waivers

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

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 18, 2023, at which time the Adopted and Filed Emergency rule making is hereby rescinded.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **19.11(4)“c”** as follows:

c. An individual who holds an authorization to be a charter school administrator issued by the board of educational examiners under Iowa Code chapter 272. ~~The board of educational examiners shall adopt rules for the issuance of such authorizations not later than December 31, 2021, and such authorizations shall only be valid for service or employment as a charter school administrator.~~

ITEM 2. Amend subrules 19.12(2) to 19.12(4) as follows:

19.12(2) ~~The school district of residence shall pay to the charter school in which the student is enrolled in the manner required under Iowa Code section 282.18, and pursuant to the timeline in Iowa Code section 282.20(3),~~ shall receive under subrule 19.12(4) an amount equal to the sum of the state cost per pupil for the previous school year, plus the teacher leadership supplement state cost per pupil for the previous fiscal year as provided in Iowa Code section 257.9, plus any moneys received by the school district of residence for the student as a result of the non-English speaking weighting under Iowa Code section 280.4(3) for the previous school year, multiplied by the state cost per pupil for the previous year. If a student is an eligible pupil under Iowa Code section 261E.6, the charter school shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in Iowa Code section 261E.7.

19.12(3) For a student requiring special education, the school district of residence shall pay to the charter school, pursuant to the timeline in Iowa Code section 282.20(3), the actual costs incurred in providing the appropriate special education.

19.12(4) ~~For each student enrolled in the charter school who was not included in the actual enrollment of the district of residence under Iowa Code section 257.6(1) in the previous school year, the~~ The amount otherwise required to be paid to the charter school under subrule 19.12(2) or 19.12(3) shall instead be paid by the department to the charter school for the student’s initial year of enrollment during the school year for which the student is enrolled in the charter school. The amount paid to the charter school under this subrule shall result in an equal reduction to the school district of residence’s state aid

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payment amount under Iowa Code chapter 257 for the school budget year following the school year for which the payment to the charter school is made, so long as the student was counted in the district of residence's actual enrollment in the school year for which the student attended the charter school.

ITEM 3. Amend subrule 19.12(7) as follows:

19.12(7) ~~If necessary, and pursuant to rules adopted by the state board, paragraph 19.12(7) "a,"~~ funding amounts required under this rule for the first school year of a new charter school shall be based on enrollment estimates for the charter school included in the charter school contract. ~~Initial amounts~~ The process set out in paragraph 19.12(7) "b" shall be used for determining estimated enrollments for charter school funding purposes in school years after the first year of a charter school. Amounts paid using estimated enrollments shall be reconciled during the subsequent ~~payment payments~~ based on actual enrollment of the charter school during the first ~~each~~ school year: pursuant to paragraph 19.12(7) "c."

a. Enrollment estimates for the first school year shall be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

b. Enrollment estimates for school years following the first school year shall be based on the number of enrolled students reported to the department through the student information system by August 5 of the school year.

c. Estimated payments shall be reconciled, at minimum, based on actual enrollment information reported by the charter school pursuant to Iowa Code sections 256.9(44) and 257.6.

[Filed 11/16/22, effective 1/18/23]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6722C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to preparation programs for teacher interns, practitioners and administrators

The State Board of Education hereby amends Chapter 77, "Standards for Teacher Intern Preparation Programs," and Chapter 79, "Standards for Practitioner and Administrator Preparation Programs," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 256.7(5) and 256.16.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 256.16 as amended by 2022 Iowa Acts, House File 2081.

Purpose and Summary

2022 Iowa Acts, House File 2081, eliminates the requirement that practitioner preparation programs report the results of program entrance examinations to the Department of Education, as well as the requirement that teacher candidates pass a program completion assessment. This rule making reflects the changes made by House File 2081.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 24, 2022, as **ARC 6484C**. A public hearing was held on September 13, 2022, at 9 a.m. in the

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State Board Room, Second Floor, Grimes State Office Building, Des Moines, Iowa. No one attended the public hearing. No public comments were received.

During the editing process, Department staff identified additional language that needed to be stricken to comply with 2022 Iowa Acts, House File 2081. New Item 2 reflects that change. The remainder of the amendments are identical to those published in the Notice of Intended Action.

Adoption of Rule Making

This rule making was adopted by the State Board on November 16, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. There was no Fiscal Note accompanying 2022 Iowa Acts, House File 2081.

Jobs Impact

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

Waivers

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

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 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph 77.11(2)“a,” introductory paragraph, as follows:

~~a. Acceptance into the program (to include testing described in Iowa Code section 256.16).~~
Acceptance requirements include but are not limited to:

ITEM 2. Amend paragraph 77.11(2)“b” as follows:

b. Continuation in the program with clearly defined checkpoints/gates, to include:

~~(1) For formal admission, a requirement that candidates have successfully passed a preprofessional skills test at the level approved by the program before beginning an internship; and~~
~~(2) Verification~~ verification of an offer of employment as an intern from a school or district administrator.

ITEM 3. Amend paragraph 77.11(2)“c” as follows:

c. Program completion and subsequent recommendation by the authorized official of the program for an initial teaching license, to include:

~~(1) The requirement that each teacher candidate must either meet or exceed a score on subject assessments designed by a nationally recognized testing service that measures pedagogy and knowledge of at least one subject area as approved by the director, or the teacher candidate must meet or exceed the equivalent of a score on an alternate assessment also approved by the director. That alternate assessment must be a valid and reliable subject-area-specific, performance-based assessment for preservice teacher~~

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~~candidates that is centered on student learning. The required passing score will be determined by the director using considerations described in Iowa Code section 256.16(1) “a”(2) as amended by 2019 Iowa Acts, Senate File 159, section 2. A candidate who successfully completes the practitioner preparation program as required under this subparagraph shall be deemed to have attained a passing score on the assessments administered under this subparagraph even if the department subsequently sets different minimum passing scores.~~

~~(2) Waiver by the director of the assessment requirements in this paragraph for not more than one year for a person who has completed the course requirements for an approved intern preparation program but attained an assessment score below the minimum passing score set by the department for successful completion of the program under this paragraph. The department shall forward to the BOEE the names of all candidates granted a waiver for consideration for a temporary license.~~

~~(3) Recommendation recommendation for an intern license for one or more of the endorsements identified on the department’s teacher preparation website at www.educateiowa.gov/pk-12/educator-quality/practitioner-preparation.~~

ITEM 4. Amend subrule 79.13(4) as follows:

79.13(4) Candidate assessment includes clear criteria for:

~~a. Entrance into the program. If a unit chooses to use a preprofessional skills test from a nationally recognized testing service for admission into the program, the unit must report passing rates and remediation measures annually to the department.~~

~~b. Continuation in the program with clearly defined checkpoints/gates.~~

~~c. Admission to clinical experiences (for teacher education, this includes specific criteria for admission to student teaching).~~

~~d. Program completion (for teacher education, this includes testing described in Iowa Code section 256.16; see subrule 79.15(5) for required teacher candidate assessment).~~

ITEM 5. Rescind and reserve subrule **79.15(6)**.

[Filed 11/16/22, effective 1/18/23]

[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6723C

EDUCATION DEPARTMENT[281]

Adopted and Filed

Rule making related to operational function sharing supplementary weighting

The State Board of Education hereby amends Chapter 97, “Supplementary Weighting,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 256.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 2080, and 2022 Iowa Acts, House File 2589.

Purpose and Summary

The 2022 General Assembly added two additional shared operational functions: “school resource officer” and “college and career transition counselor or coordinator.” The General Assembly also raised

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the amount of weighting generated for sharing a superintendent and added flexibility for sharing with political subdivisions and other school corporations. This rule making implements those changes and also adds a definition of “work-based learning coordinator,” which was omitted from a prior rule making.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on October 5, 2022, as **ARC 6585C**. No public comments were received.

Two changes from the Notice have been made. The definitions of “college and career transition counselor or coordinator” and “work-based learning coordinator” are identical to the statutory language. This rule making has been amended to include cross-references to the Iowa Code rather than repeat the statutory language. No substantive change is intended.

Adoption of Rule Making

This rule making was adopted by the State Board on November 16, 2022.

Fiscal Impact

This rule making has a fiscal impact to the State of Iowa.

From the Notes on Bills and Amendments for 2022 Iowa Acts, House File 2589:

Based on FY 2023 data, a total of 296 school districts are currently under the maximum amount of additional weighting for a school district of 21 additional pupils per year. School districts have a capacity to add total weighting of 554 for a college and career transition counselor or coordinator. Information is not available to determine the number of school districts that will receive the additional maximum weighting of two for a college and career transition counselor or coordinator as provided in this Act. Each school district that receives the additional weighting for a college and career transition counselor or coordinator will result in additional weighting costing an estimated \$14,826. The weighting would be funded with \$13,456 from the State General Fund and \$1,370 from local property tax beginning with FY 2024 and ending with FY 2025.

From the final Fiscal Note for 2022 Iowa Acts, House File 2080:

House File 2080 is estimated to increase the operational function sharing supplementary weighting for superintendent management by a total of 91 pupils for 91 school districts at a total annual cost of \$660,000 beginning with FY 2024 and ending with FY 2025. The estimated increase will be funded with approximately \$595,000 from the State General Fund and \$65,000 from local property tax.

Information is not available to determine the number of school districts that will receive the additional maximum weightings of two for a special education director and two for a school resource officer provided in this Bill. Information is also not available on the number of school districts that are funding a shared special education director function or school resource officer function with currently available resources and not receiving any additional weighting. However, each school district that receives the additional weighting for a shared special education director or school resource officer will result in additional weighting costing an estimated \$14,826. The weighting would be funded with \$13,456 from the State General Fund and \$1,370 from local property tax beginning with FY 2024 and ending with FY 2025.

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Jobs Impact

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

Waivers

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

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 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 97.7(2), introductory paragraph, as follows:

97.7(2) Operational function area eligibility. “Operational function sharing” means sharing of managerial personnel in the discrete operational function areas of superintendent management, business management, human resources management, student transportation management, facility operation or maintenance management, curriculum director, master social worker, independent social worker, school counselor, special education director, work-based learning coordinator, ~~or~~ mental health professional if the mental health professional holds a statement of recognition issued by the board of educational examiners, school resource officer, or college and career transition counselor or coordinator. “Operational function sharing” does not mean sharing of clerical personnel or school principals. The operational function sharing arrangement does not need to be a newly implemented sharing arrangement in order to be eligible for supplementary weighting.

ITEM 2. Amend paragraph **97.7(2)“j”** as follows:

j. Work-based learning coordinator:

(1) and (2) No change.

(3) “Work-based learning coordinator” means the same as defined in Iowa Code section 257.11(5)“a”(2).

~~(3)~~ (4) Shared work-based learning coordinator services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

ITEM 3. Adopt the following **new** paragraphs **97.7(2)“l”** and **“m”**:

l. School resource officer.

(1) Shared personnel must perform the function of a school resource officer. An individual performing the function of a school resource officer must meet the definition in subparagraph 97.7(2)“l”(3).

(2) Deans of students, school business managers, school administration managers, school counselors, clerical personnel, paraprofessionals, private security guards, or custodians shall not be considered shared school resource officers for supplementary weighting under this subrule.

(3) “School resource officer” means the same as defined in 34 U.S.C. Section 10389.

(4) Shared school resource officer services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

m. College and career transition counselor or coordinator.

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(1) Shared personnel must perform the services of a college and career transition counselor or coordinator as defined in subparagraph 97.7(2) “m”(3).

(2) Superintendents, principals, curriculum directors, deans of students, school counselors, work-based learning coordinators, or other support services personnel in the guidance services function area shall not be considered a shared college and career transition counselor or coordinator under this subrule.

(3) “College and career transition counselor or coordinator” means the same as defined in Iowa Code section 257.11(5) “a”(2).

(4) Shared college and career transition counselor or coordinator services shall not include contracting for services from a private provider even if another political subdivision is contracting for services from the same private provider.

ITEM 4. Amend paragraphs 97.7(10) “a” and “c” as follows:

a. A school district that shares an operational function in the area of superintendent management shall be assigned a supplementary weighting of ~~eight~~ nine pupils for the function.

c. A school district that shares the operational functions of a curriculum director, master social worker, independent social worker, school counselor, work-based learning coordinator, special education director, ~~or~~ mental health professional, school resource officer, or college and career transition counselor or coordinator shall be assigned a supplementary weighting of three pupils for the function. For the school budget years beginning July 1, 2022; July 1, 2023; and July 1, 2024, the weighting shall be two pupils.

ITEM 5. Amend subrule 97.7(11) as follows:

97.7(11) *Sharing arrangement duties.* A school district may receive the additional weighting for the sharing of services of an individual with a political subdivision ~~that is not a school corporation or another school district~~ even if the type of operational function performed by the individual for the school district and the type of operational function performed by the individual for the political subdivision or school district are not the same operational function, so long as either both operational functions are eligible for weighting or the operational function the individual performs for the school district is special education director. ~~In such either case,~~ the school district shall be assigned the additional weighting for the type of operational function that the individual performs for the school district, and the school district shall not receive additional weighting for any other function performed by the individual.

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[Published 12/14/22]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6734C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Rule making related to general permits

The Environmental Protection Commission (Commission) hereby amends Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” and Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.103A, 455B.105(3) and 455B.173.

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State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.103A, 455B.105 and 455B.173.

Purpose and Summary

Several amendments are adopted in this rule making, none of which are major substantive changes.

First, this rule making renews National Pollutant Discharge Elimination System (NPDES) General Permit Nos. 1, 2, and 3 for storm water and NPDES General Permit No. 4 for private sewage disposal systems. These general permits were previously set to expire on February 28, 2023. Renewal of these permits is necessary because subrule 64.3(7) states that general permits are only valid for five years. The new effective dates for all four general permits will be March 1, 2023, through February 29, 2028.

Second, several amendments clarify and improve the readability of existing requirements. The revisions to NPDES General Permit Nos. 1 through 4, as well as the amendments to Chapter 60, update existing wording in the regulations, definitions, and standard conditions to match the administrative rules and federal regulations. These changes make the wording uniform, remove redundancies, and improve readability but do not affect the substance. For example, the existing maximum Total Suspended Solids limits are revised to be more user-friendly. The definition of “storm water discharge associated with industrial activity” in the general permits now clearly includes disturbances of less than one acre that are part of a larger common plan of development. This is already required in the federal regulations. Additionally, several clarifying amendments were requested by stakeholders, including several changes to NPDES General Permit No. 2 in particular. These amendments do the following:

- Clarify that seeding alone is insufficient to stabilize a site and that establishment of vegetative cover sufficient to preclude erosion is necessary to achieve stabilization.
- Clarify that other stabilization measures must continue to be implemented when necessary until seeded areas have achieved sufficient vegetative cover.
- Clarify that the definition of “final stabilization” includes areas covered by a permanent structure.

Copies of the adopted general permits are available upon request from the Department of Natural Resources (Department) and may be viewed at: www.iowadnr.gov/Environmental-Protection/Water-Quality/NPDES-Wastewater-Permitting/NPDES-Rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 7, 2022, as **ARC 6501C**. A public hearing was held on September 28, 2022, at 2 p.m. via video/conference call.

Two comments were received regarding the proposed changes to General Permit Nos. 1, 2, and 3. The first commenter requested that the construction site inspection frequency of once every seven calendar days, as noted in proposed General Permit No. 2, be modified to account for federal holidays. This inspection frequency matches the frequency in the Environmental Protection Agency’s Construction General Permit for Stormwater Discharges from Construction Activities, effective on February 17, 2022. Thus, no change to General Permit No. 2 has been made.

The second commenter requested clarification of contradictory requirements in proposed General Permit Nos. 1 and 3 regarding data submission and data retention. The requirements in General Permit Nos. 1 and 3 referenced by the comment are also in General Permit No. 2. The data submission and retention requirements in the Notice of Intent (NOI) and records retention parts of proposed General Permit Nos. 1, 2, and 3 did not match the existing requirements in the NOI form or the requirements in the renotification parts of the general permits. Data submission is not required by the current NOI form, and a data summary is not required by the current renotification parts of the general permits. However, permittees need to retain records for three years, as noted in all three general permits. In response to

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this comment, language clarifying the requirements for data submission and retention has been added to General Permit Nos. 1, 2, and 3. Changes have been made to the NOI and records retention parts of the general permits (Parts II.C.1.E. of General Permit Nos. 1, 2 and 3; Part V.E. of General Permit Nos. 1 and 3; and Part V.A. of General Permit No. 2) to indicate that data is not required to be submitted with an NOI, renotification does not require the submission of a data summary, and all records used in the completion of an NOI shall be retained for three years.

No comments were received regarding the proposed changes to General Permit No. 4. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on November 15, 2022.

Fiscal Impact

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

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

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

Effective Date

This rule making will become effective on March 1, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend rule **567—60.2(455B)**, definition of “Storm water discharge associated with industrial activity,” as follows:

“*Storm water discharge associated with industrial activity*” means the discharge from any conveyance ~~which~~ that is used for collecting and conveying storm water and ~~which~~ that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR Part 122. For the categories of industries identified in ~~paragraphs “1” to “10” of this definition,~~ the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR Part 401); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms)

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for raw materials, and intermediate and ~~finished~~ final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.

~~For the categories of industries identified in paragraphs "1" to "9" and "11," the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery are exposed to storm water. For the purposes of this paragraph, purposes of this definition, material handling activities include the: storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished final product, by-product or waste product. To qualify for this exclusion, a storm-resistant shelter is not required for: drums, barrels, tanks and similar containers that are tightly sealed with bands or otherwise secured and have no taps or valves, are not deteriorated and do not leak; adequately maintained vehicles used in material handling; and final products other than products that would be mobilized in storm water discharge.~~ The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities (including industrial facilities that are federally, state, or municipally owned or operated) that meet the description of the facilities listed in paragraphs "1" to "11" of this definition) include those facilities designated under 40 CFR Section 122.26(a)(1)(v). The following categories of facilities are considered to be engaging in "industrial activity" for purposes of this definition:

1. No change.
2. Facilities classified as ~~Standard Industrial Classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, 373;~~ within Standard Industrial Classification 24, Industry Group 241 that are rock crushing, gravel washing, log sorting, or log storage facilities operated in connection with silvicultural activities defined in 40 CFR Sections 122.27(b)(2)-(3) and Industry Groups 242 through 249; 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373; (not included are all other types of silviculture facilities);
3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral industry) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR Section 434.11(1)) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, or except for areas of non-coal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990;) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with, or that has come into contact with, any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);
4. No change.
5. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this definition) including those that are subject to regulation under Subtitle D of RCRA;
6. and 7. No change.
8. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-4225), 43, 44, 45 and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs "1" to "7" or "9" ~~or to~~ or to "11" of this definition are associated with industrial activity;
9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic

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sewage, including land dedicated to the disposal of sewage sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or more, or required to have an approved pretreatment program under 40 CFR Part 403. Not included are farmlands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with ~~40 CFR Part 503~~ Section 405 of the Clean Water Act;

10. Construction activity including clearing, grading and excavation, ~~activities except operations that result in the disturbance of less than 5 acres~~ one acre of total land area ~~which is not part of a larger common plan of development or sale. Effective March 10, 2003, construction activity including clearing, grading and excavation activities except operations that result in the disturbance of less than 1 acre of total land area which is not part of a larger common plan of development or sale.~~ Construction activity also includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more;

11. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-4225 ~~(and which are not otherwise included within paragraphs "2" to "10").~~

ITEM 2. Amend subrule 64.15(1) as follows:

64.15(1) Storm Water Discharge Associated with Industrial Activity, NPDES General Permit No. 1, effective March 1, ~~2018~~ 2023, to February ~~28, 2023~~ 29, 2028. Facilities assigned Standard Industrial Classification 1442, 2951, or 3273, and those facilities assigned Standard Industrial Classification 1422 or 1423 which are engaged primarily in rock crushing are not eligible for coverage under General Permit No. 1.

ITEM 3. Amend subrule 64.15(2) as follows:

64.15(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2, effective March 1, ~~2018~~ 2023, to February ~~28, 2023~~ 29, 2028.

ITEM 4. Amend subrule 64.15(3) as follows:

64.15(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities, NPDES General Permit No. 3, effective March 1, ~~2018~~ 2023, to February ~~28, 2023~~ 29, 2028. General Permit No. 3 authorizes storm water discharges from facilities primarily engaged in manufacturing asphalt paving mixtures and which are classified under Standard Industrial Classification 2951, primarily engaged in manufacturing Portland cement concrete and which are classified under Standard Industrial Classification 3273, those facilities assigned Standard Industrial Classification 1422 or 1423 which are primarily engaged in the crushing, grinding or pulverizing of limestone or granite, and construction sand and gravel facilities which are classified under Standard Industrial Classification 1442. General Permit No. 3 does not authorize the discharge of water resulting from dewatering activities at rock quarries.

ITEM 5. Amend subrule 64.15(4) as follows:

64.15(4) "Discharge from Private Sewage Disposal Systems," NPDES General Permit No. 4, effective March 1, ~~2018~~ 2023, to February ~~28, 2023~~ 29, 2028.

[Filed 11/22/22, effective 3/1/23]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.

ARC 6727C**LAW ENFORCEMENT ACADEMY[501]****Adopted and Filed****Rule making related to certification and training**

The Law Enforcement Academy hereby amends Chapter 2, “Minimum Standards for Iowa Law Enforcement Officers,” Chapter 3, “Certification of Law Enforcement Officers,” Chapter 4, “Instructor Certification Criteria for the Training of Peace Officers, Reserve Officers, Jailers and Public Safety Telecommunicators,” Chapter 9, “Jailer Training,” and Chapter 10, “Reserve Peace Officers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 80B.11, 80B.11A and 80B.11C.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2022 Iowa Acts, House File 803.

Purpose and Summary

The Academy has reviewed and updated its rules to reflect changes to curricula and procedures. The adopted amendments to Chapters 3, 4 and 9 reflect changes made to the basic academy and jail academy curricula. The adopted amendments to Chapters 2 and 10 related to physician assistants are mandated by 2022 Iowa Acts, House File 803.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6545C**.

One public comment was received. The comment requested an amendment to Chapter 13, “Public Safety Telecommunicator Training Standards,” that would add a requirement to the public safety telecommunicator curriculum to include training in pre-arrival CPR instruction. Since no amendments to Chapter 13 were proposed in **ARC 6545C**, the request for the additional training was not acted upon in this rule making.

Two changes have been made from the Notice. The proposed amendment to subrule 4.2(1) that would have shortened the minimum experience requirement to become a certified instructor from three years to 18 months has not been adopted. In paragraphs 9.1(2)“b” and 9.2(2)“a,” a phrasing change has been made to clarify a technical term related to jailer training and in-service training for administrators and supervisors of holding facilities.

Adoption of Rule Making

This rule making was adopted by the Academy on November 10, 2022.

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.

LAW ENFORCEMENT ACADEMY[501](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 Academy Council for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

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 18, 2023.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 2.1(11) as follows:

2.1(11) Is examined by a licensed physician, physician assistant or surgeon and meets the physical requirements necessary to fulfill the responsibilities of a law enforcement officer.

ITEM 2. Amend rule 501—3.2(80B) as follows:

501—3.2(80B) Law enforcement status forms furnished to academy. Within ~~20~~ ten days of any of the following occurrences, the academy will be so advised by use of prescribed forms:

1. Any hiring of personnel.
2. Change of status of existing personnel (e.g., promotions).
3. Any termination of employment of a law enforcement officer or termination of appointment as a reserve peace officer. The notification must state whether the law enforcement officer or reserve peace officer was discharged or removed for serious misconduct or whether the officer left, voluntarily quit, or was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer being discharged or removed for serious misconduct. Upon request by the council, the employing agency shall provide any additional information or documentation about the officer including confidential records or information under Iowa Code section 22.7 or other applicable law to the council.

ITEM 3. Amend subrule 3.4(1) as follows:

3.4(1) Have satisfactorily completed a two-year or four-year police science or criminal justice program ~~of which~~ that includes at least 20 credit hours ~~were~~ dedicated to police science or criminal justice coursework at an accredited educational institution and documentation furnished to the academy.

ITEM 4. Amend subrule 3.5(1) as follows:

3.5(1) Program administration 24 hours

~~a. Duty assignments.~~

~~b. a.~~ Examinations.

~~c. b.~~ Family day.

~~d. c.~~ Graduation.

~~e. d.~~ Registration/orientation.

~~f. e.~~ Student advisor meeting.

ITEM 5. Amend subrule 4.1(1) as follows:

4.1(1) Instructor designation. All instructors of a council-approved training program, excluding agency in-service training, will be designated as either general or a subject matter expert (SME). General instructors will be peace officers, jailers, jail administrators or public safety telecommunicators

LAW ENFORCEMENT ACADEMY[501](cont'd)

instructing in subjects relevant to their profession. Subject matter expert instructors will be those instructing subjects in the areas requiring a specialized academic degree, certification, licensure or experience. ~~Final~~ The final decision as to whether an instructor is in the general or SME area rests with the academy council or the academy director.

ITEM 6. Amend paragraph **9.1(1)“b”** as follows:

b. Approved 40-hour training program curriculums shall include the following topics:

- (1) No change.
- (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147) (recommended prerequisite).
- (3) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)) (recommended prerequisite).
- (4) to (7) No change.
- (8) ~~Medical screening at intake~~ Intake procedures (201—subrule 50.15(6)).
- (9) and (10) No change.
- (11) DNA submissions (recommended prerequisite).
- (12) No change.
- (13) Medication management (201—subrule 50.15(2)) (recommended prerequisite).
- (14) to (16) No change.

ITEM 7. Amend subrule 9.1(2) as follows:

9.1(2) Annual jailer in-service curriculum. During each fiscal year of employment following completion of the required basic training as set forth in subrule 9.1(1), jailers and the administrator of a jail shall complete 20 hours of in-service training, not to include proficiency in chemical agents or firearms qualification. All instructors shall be certified by academy personnel utilizing certification standards adopted by the academy.

a. The following is a list of annually (every year) required topics (10 hours minimum):

- | | |
|--|----------------------------|
| 12 hours | |
| (1) Suicide prevention/mental illness (201—paragraph 50.15(6)“c”). | 3 hours |
| minimum | |
| (2) Prison rape elimination act (PREA) (Title 42 U.S.C. 147). | 1 hour minimum |
| (3) Emergency evacuation plan (201—subrule 50.9(3)). | |
| (4) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)). | 1 hour minimum |
| (5) Legal: training topics in paragraphs “1” through “5” must include references to the Iowa Code, jail standards and relevant case law. | 2 hours |
| 1. Grievance and disciplinary procedures (201—subrule 50.21(4)). | |
| 2. Constitutional rights of inmates (201—Chapter 50). | |
| 3. Introduction to Iowa criminal law as applicable to a jail setting (201—Chapter 50). | |
| 4. Affirmative duty to intervene/intercede. | |
| 5. Use of force (Iowa Code sections 704.1, 704.2, 704.2A, 704.2B, 704.8). | |
| (6) Cultural diversity including implicit bias (Iowa Code section 80B.11G). | 2 hours minimum |
| (7) Communication skills including de-escalation (Iowa Code section 80B.11G). | 1 hour minimum |
| (8) Methods of restraining violent inmates. | 1 hour minimum |
| (9) Medical screening at intake <u>Intake procedures</u> (201—subrule 50.15(6)). | |
| 1 hour minimum | |
| b. Required biannually (every two years): | |
| CPR/AED/airway obstruction— adult (adult). | 4 hours |
| c. Eight <u>Ten</u> hours of additional training selected by the jail administrator or sheriff. | |

ITEM 8. Amend subrule 9.2(2) as follows:

9.2(2) Annual holding facility in-service curriculum.

LAW ENFORCEMENT ACADEMY[501](cont'd)

a. Administrators and supervisors of holding facilities shall complete five hours of in-service training, not to include hours spent in maintaining required certification or proficiency in first aid, CPR/AED/airway obstruction—~~adult~~ (adult), chemical agents, or handling of firearms.

b. Required annually (every year):

(1) Suicide prevention (201—paragraph 50.15(6)“c”); ~~1—hour~~
~~minimum~~

(2) Emergency evacuation plan (201—subrule 50.9(3));

(3) Bloodborne pathogens (OSHA standard as set out in CFR Part 1910.1030(g)(2)); ~~1—hour~~
~~minimum~~

(4) Prison rape elimination act (PREA) (Title 42 U.S.C. 147).

ITEM 9. Amend subrule 10.1(5) as follows:

10.1(5) Is of good moral character as determined by a thorough background investigation, including a fingerprint search conducted on local, state and national fingerprint files, and has not been convicted or adjudicated of any offense listed in ~~501—paragraph 2.1(5)“a.”~~ 501—subrule 2.1(5).

ITEM 10. Amend subrule 10.1(10) as follows:

10.1(10) Is examined by a licensed physician, physician assistant or surgeon and meets the physical requirements as defined by the law enforcement agency necessary to fulfill the responsibilities of the reserve peace officer position being filled.

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