



IOWA ADMINISTRATIVE BULLETIN

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August 31, 2016

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Pages 323 to 378

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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]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2016

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
7	Friday, September 9, 2016	September 28, 2016
8	Friday, September 23, 2016	October 12, 2016
9	Friday, October 7, 2016	October 26, 2016

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, September 13, 2016, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Cottonseed product control, 41.12 Filed **ARC 2676C**..... 8/17/16

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Filling and selling of beer in a container other than the original container by Class "C" beer permit holders, 4.6(5) Notice **ARC 2679C**..... 8/17/16

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

Roster of business entities; administrator duties; board meetings; registration; fees, amendments to chs 1, 2 Filed **ARC 2674C**..... 8/17/16

CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband infrastructure—targeted service areas, project certification, chs 20, 21 Notice **ARC 2699C**..... 8/31/16

CITY FINANCE COMMITTEE[545]

MANAGEMENT DEPARTMENT[541]"umbrella"

Change in calculating surplus balance in city utility and enterprise funds, 2.5(5) Notice **ARC 2687C**..... 8/31/16

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

All Iowa opportunity scholarship program; Iowa teacher shortage loan forgiveness program, amendments to chs 8, 35 Notice **ARC 2677C**..... 8/17/16

DENTAL BOARD[650]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Licensure to practice dentistry or dental hygiene, 11.2, 11.3(2), 11.5, 11.6(2) Notice **ARC 2701C**..... 8/31/16

Dental and dental hygiene examinations, 12.1 to 12.4 Notice **ARC 2700C**..... 8/31/16

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"

Standard teaching license—evidence of successful teaching experience, 13.7 Notice **ARC 2689C**..... 8/31/16

Coaching—transitional authorization, certificate of CPR training, 13.28(29), 22.1 Notice **ARC 2690C**..... 8/31/16

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Iowa antidegradation implementation procedure, 61.2(2)"e," 64.2(9)"a," 64.7(2)"f" Filed Emergency After Notice **ARC 2695C**..... 8/31/16

Yard waste—disposal at landfills, separate collection by municipalities, 105.1, 113.8(1)"b"(13) Filed **ARC 2692C**..... 8/31/16

HUMAN SERVICES DEPARTMENT[441]

Autism support program, amendments to ch 22 Notice **ARC 2680C**..... 8/17/16

Family investment program (FIP)—use of electronic access card to access benefits at a prohibited location, 40.21, 41.25(11), 46.24(3)"c" Notice **ARC 2684C**..... 8/17/16

Child support establishment and suspension, amendments to ch 99 Notice **ARC 2702C**..... 8/31/16

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Federal occupational safety and health standards—adoption by reference, 4.3 Filed **ARC 2688C**..... 8/31/16

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Alcoholic liquor, beer, and wine ban at beaches in Lake Macbride State Park and Pleasant Creek State Recreation Area, 61.7(2) Filed **ARC 2694C**..... 8/31/16

Nursery stock prices, 71.3 Filed **ARC 2693C**..... 8/31/16

Antlerless-deer-only license quotas for 2016, 106.6(6) Filed Emergency After Notice **ARC 2697C**..... 8/31/16

PAROLE BOARD[205]

CORRECTIONS DEPARTMENT[201]"umbrella"

Certificate of employability; parole revocation hearing; automatic revocation for conviction
of aggravated misdemeanor, amendments to chs 9, 11 Filed **ARC 2678C** 8/17/16**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Calculation of adjusted gross receipts, 5.4(10) Notice **ARC 2686C** 8/31/16**REGENTS BOARD[681]**Iowa state university—delegation of contracting authority, 13.8 Filed **ARC 2672C** 8/17/16**REVENUE DEPARTMENT[701]**Automobile rental excise tax; replacement tax and statewide property tax on rate-regulated
water utilities—five-year review of rules, amendments to chs 27, 78 Filed **ARC 2696C** 8/31/16
Iowa ABLE savings plan trust, 40.81, 86.5(16) Filed **ARC 2691C** 8/31/16
Tax credits for purchasers and producers of renewable energy, 42.28, 52.27 Notice **ARC 2681C** 8/17/16
Excise tax rate on motor fuels, 68.2(1) Filed **ARC 2698C** 8/31/16
Property tax exemption for broadband infrastructure, 80.31 Notice **ARC 2703C** 8/31/16**STATE PUBLIC DEFENDER[493]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Submission and payment of attorney claims—online system, 12.2(1) Notice **ARC 2685C** 8/31/16**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Electric interconnection of distributed generation facilities, amendments to ch 45 Notice **ARC 2673C** 8/17/16**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**Iowa veterans home, amendments to ch 10 Filed **ARC 2675C** 8/17/16**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

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

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501Representative Lisa Heddens
2401 Westwind Drive
Ames, Iowa 50010Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645Representative Bruce Hunter
452 Wilmers Avenue
Des Moines, Iowa 50315Senator Thomas Courtney
2609 Clearview
Burlington, Iowa 52601Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313Senator Pam Jochum
2368 Jackson Street
Dubuque, Iowa 52001Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577Jack Ewing
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-6048
Fax (515)281-8451Colin Smith
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

ALCOHOLIC BEVERAGES DIVISION[185]

Filling and selling of beer in a container other than the original container by Class "C" beer permit holders, 4.6(5) IAB 8/17/16 ARC 2679C	Division Board Room 1918 S.E. Hulsizer Road Ankeny, Iowa	September 9, 2016 10 a.m. (If requested)
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CHIEF INFORMATION OFFICER, OFFICE OF THE[129]

Broadband infrastructure—targeted service areas, project certification, chs 20, 21 IAB 8/31/16 ARC 2699C	Conference Room A-5 Hoover State Office Bldg. Des Moines, Iowa	September 20, 2016 1 to 2 p.m.
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DENTAL BOARD[650]

Licensure to practice dentistry or dental hygiene, 11.2, 11.3(2), 11.5, 11.6(2) IAB 8/31/16 ARC 2701C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	September 21, 2016 2 p.m.
Dental and dental hygiene examinations, 12.1 to 12.4 IAB 8/31/16 ARC 2700C	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	September 21, 2016 2 p.m.

EDUCATIONAL EXAMINERS BOARD[282]

Standard teaching license—evidence of successful teaching experience, 13.7 IAB 8/31/16 ARC 2689C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	September 21, 2016 1 p.m.
Coaching—transitional authorization, certificate of CPR training, 13.28(29), 22.1 IAB 8/31/16 ARC 2690C	Room 3 Southwest Grimes State Office Bldg. Des Moines, Iowa	September 21, 2016 1 p.m.

PUBLIC SAFETY DEPARTMENT[661]

Public fueling of motor vehicles with liquid petroleum gas, 226.4(5), 226.9, 226.10 IAB 8/31/16 ARC 2658C	First Floor Public Conference Room 125 Oran Pape State Office Bldg. 215 E. 7th St. Des Moines, Iowa	August 31, 2016 10 a.m.
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RACING AND GAMING COMMISSION[491]

Calculation of adjusted gross receipts, 5.4(10) IAB 8/31/16 ARC 2686C	Commission Office, Suite 100 1300 Des Moines St. Des Moines, Iowa	September 20, 2016 9 a.m.
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STATE PUBLIC DEFENDER[493]

Submission and payment of attorney claims—online system, 12.2(1) IAB 8/31/16 ARC 2685C	Conference Room 424, Fourth Floor Lucas State Office Bldg. Des Moines, Iowa	September 22, 2016 2:30 p.m.
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The following list will be updated as changes occur.

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

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

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

ADMINISTRATIVE SERVICES DEPARTMENT[11]
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 AUDITOR OF STATE[81]
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 BLIND, DEPARTMENT FOR THE[111]
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 CHIEF INFORMATION OFFICER, OFFICE OF THE[129]
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 Professional Licensing and Regulation Bureau[193]
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 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
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PROPANE EDUCATION AND RESEARCH COUNCIL, IOWA[599]
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ARC 2699C**CHIEF INFORMATION OFFICER, OFFICE OF THE[129]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 8B.1, 8B.10, and 427.1(40), the Office of the Chief Information Officer (OCIO) hereby gives Notice of Intended Action to adopt Chapter 20, “Broadband Infrastructure—Targeted Service Areas,” and Chapter 21, “Broadband Infrastructure—Project Certification,” Iowa Administrative Code.

The subject matter of Chapters 20 and 21 is related to the OCIO’s role in the broadband infrastructure property tax exemption. These chapters are intended to implement Iowa Code sections 8B.1, 8B.3, 8B.10, 8B.15, 17A.3, and 427.1(40). Iowa Code sections 8B.1 and 8B.10 require the OCIO to determine whether census blocks within the state of Iowa constitute “targeted service areas” as defined by Iowa Code section 8B.1 and to provide a process by which persons may challenge such determinations. Iowa Code section 427.1(40) allows for a property tax exemption for the installation of broadband infrastructure by communications service providers in targeted service areas, which installations meet certain requirements, including receipt of certification from the OCIO that the project: (1) is being performed or was completed in a targeted service area; and (2) that the broadband infrastructure installed facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 20, 2016. Comments should be directed to the Chief Technology Officer, Office of the Chief Information Officer, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-6137 or by e-mail to ociorules@iowa.gov or may be submitted at <https://rules.iowa.gov>.

A public hearing will be held on September 20, 2016, from 1 to 2 p.m. in Conference Room A-5, Hoover State Office Building, Level A, 1305 East Walnut Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed rules. 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 Office and advise of specific needs by calling (515)281-5503.

The Office finds that the certifications issued in support of the property tax exemption for broadband infrastructure will have no fiscal impact on local property tax revenues, as the certification itself does not provide the exemption, and the exemption is only for the value added by new infrastructure.

An agencywide waiver provision has not yet been adopted by the Office, but will be adopted in a subsequent rule-making proceeding.

After analysis and review of this rule making, a positive impact on jobs may exist. These rules implement the underlying certification rules relating to a property tax exemption for the installation of new broadband infrastructure and further the goals of the Connect Every Acre initiative to provide broadband services to underserved areas in the state.

These amendments are intended to implement Iowa Code sections 8B.1, 8B.3, 8B.10, 8B.15, 17A.3, and 427.1(40).

The following amendments are proposed.

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

ITEM 1. Reserve **129—Chapter 7 to Chapter 19.**

ITEM 2. Adopt the following **new** 129—Chapter 20 and Chapter 21:

TITLE II
BROADBAND

CHAPTER 20

BROADBAND INFRASTRUCTURE—TARGETED SERVICE AREAS

129—20.1(8B,427) Definitions. For purposes of this chapter, the following definitions shall govern.

“*Broadband*” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.

“*Broadband infrastructure*” means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.

“*Census block*” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block.

“*Chief information officer*” or “*CIO*” means the state chief information officer or the state chief information officer’s designee.

“*Communications service provider*” means a service provider that provides broadband service.

“*Crop operation*” means a commercial enterprise where a crop is maintained on the property of the commercial enterprise.

“*Date of commencement*” means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.

“*Date of completion*” or “*completed*” means the date that a communications service provider offers or facilitates broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area.

“*Installation of the broadband infrastructure*” means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

“*Is being performed*” includes but is not limited to the planning, preparation, design, architecture, labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services.

“*Office*” means the office of the chief information officer authorized by Iowa Code chapter 8B.

“*Targeted service area*” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015.

129—20.2(8B,427) Scope. This chapter applies to the office’s determinations of whether a census block is a targeted service area and to persons who wish to challenge the office’s finding on whether a census block is a targeted service area.

129—20.3(8B,427) Broadband availability maps and data sources. To determine whether a communications service provider offers or facilitates broadband service in a particular census block at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of July 1, 2015, the office utilized broadband availability maps and corresponding data sources made

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available by Connect Iowa, LLC, a subsidiary of Connected Nation, Inc. Such maps and data sources were widely accepted for accuracy and made available for public review and comment. By selecting these maps and data sources, the office has satisfied its obligation to reference broadband availability maps or data sources that are widely accepted for accuracy and available for public review and comment as required by Iowa Code section 8B.10(1).

129—20.4(8B,427) Targeted service area determination. The office will create a statewide map divided into census blocks. Based on the maps and data sources referenced in rule 129—20.3(8B,427), the statewide map will designate census blocks within which, as of July 1, 2015, no communications service provider offered or facilitated broadband service to the public at or above 25 megabits per second of download speed and 3 megabits per second of upload speed. This statewide map shall be available online at <http://ocio.iowa.gov/>. As of [the effective date of these rules], targeted service area designations as shown on the statewide map shall be considered the office's final determination and finding of whether a particular census block constitutes a targeted service area, unless a person or party successfully challenges the office's determination pursuant to the appeals and contested case process outlined in this chapter, in which case the office will update the statewide map to reflect the outcome of such challenge(s). For the sake of clarity, failure to challenge the office's determination and finding of whether a particular census block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall render the office's determination and finding with respect to that particular census block final and no longer subject to challenge. A party's failure to challenge the office's determination and finding of whether a particular census block constitutes a targeted service area by filing a notice of appeal within the 20-day period established by subrule 20.5(1) shall be deemed a failure to exhaust administrative remedies.

129—20.5(8B,427) Appeals.

20.5(1) Notice of appeal. Within 20 days after the office makes its final determination of whether a particular census block constitutes a targeted service area pursuant to rule 129—20.4(8B,427), any person or party aggrieved or adversely affected by such determination may challenge the office's finding by filing a notice of appeal with the office.

a. The notice of appeal shall set forth:

(1) The name, address, telephone number, and e-mail address of the person or party;

(2) The particular census block designation the person or party is challenging by stating:

1. The census block number as provided on the statewide map referenced in rule 129—20.4(8B,427);

2. The county in which the census block is located as provided on the statewide map referenced in rule 129—20.4(8B,427);

(3) The manner in which the person or party is aggrieved or adversely affected by the office's determination; and

(4) The grounds upon which the appeal is based.

b. Accompanying the notice of appeal, the person or party shall provide the office with all evidence and information necessary to support the appeal.

20.5(2) Filing. Except to the extent that electronic filing is not feasible, a notice of appeal and all corresponding evidence and information shall be filed by electronic mail (e-mail) at cio@iowa.gov. To the extent electronic filing is not feasible, the notice of appeal and all corresponding evidence and information shall be mailed to: Office of the Chief Information Officer, Hoover State Office Building, Level B, 1305 East Walnut Street, Des Moines, Iowa 50319. If the notice of appeal and corresponding evidence and information are filed by mail, such filing shall be accompanied by a written explanation of why electronic filing was not feasible.

20.5(3) Notification of and input from affected persons or parties. Within 10 calendar days of receipt of a notice of appeal, the office shall provide notification to any affected persons or parties by posting the notice of appeal at <http://ocio.iowa.gov/>. From the date of such posting, any affected persons or parties will have 20 calendar days to submit evidence and information in support of, or in opposition

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to, such appeal. Except to the extent not feasible, any such evidence and information shall be submitted by electronic mail (e-mail) to cio@iowa.gov. To the extent electronic submission is not feasible, such evidence and information shall be mailed to: Office of the Chief Information Officer, Hoover State Office Building, Level B, 1305 East Walnut Street, Des Moines, Iowa 50319. If such evidence or information is submitted by mail, the evidence or information shall be accompanied by a written explanation of why electronic submission was not feasible.

20.5(4) Internal review. At the end of the time periods specified in subrules 20.5(1) and 20.5(3), the office shall consolidate all appeals involving the same census block and conduct an internal review of the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources originally utilized in rule 129—20.4(8B,427), and any other information deemed relevant by the office.

20.5(5) Final agency decision. Following the internal review set forth in subrule 20.5(4), the office will issue a final agency decision stating the reasons for the office's decision concerning the census block in question. In issuing the decision, the office shall consider the evidence and information submitted by all appellants related thereto, in conjunction with any other evidence and information submitted by any affected persons or parties pursuant to subrule 20.5(3), the maps and data sources originally utilized in rule 129—20.4(8B,427), and any other information deemed relevant by the office. The final agency decision will be posted online at <http://ocio.iowa.gov/>. The final agency decision shall become final unless within 30 days of such posting an appellant or an affected person or party that submitted evidence in support of, or in opposition to, the appeal files a request for a contested case proceeding pursuant to rule 129—20.6(8B,427).

20.5(6) Time of filing. In determining the date on which an appeal or request for a contested case proceeding is filed with the office, the following shall apply: an appeal or request for a contested case proceeding delivered by mail shall be deemed to be filed on the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed on the date of receipt.

20.5(7) Public records. The office's release of public records is governed by 129—Chapter 2 and Iowa Code chapter 22. Persons are encouraged to familiarize themselves with 129—Chapter 2 and Iowa Code chapter 22 before submitting evidence or information to the office as part of the appeals and contested case process outlined in this chapter. The office will copy and produce public records upon request as required to comply with Iowa Code chapter 22 and will treat all evidence and information submitted by persons or parties as public, nonconfidential records unless a person or party requests that specific parts of the evidence or information submitted be treated as confidential at the time of the submission to the office.

a. A person or party requesting confidential treatment of evidence or information submitted must:

- (1) Fully complete and submit to the office Form 22 (available online at <http://ocio.iowa.gov/>);
- (2) Identify the request in the notice of appeal or, if evidence or information is submitted pursuant to subrule 20.5(3), identify the request in the transmittal e-mail or the written explanation of why electronic filing was not feasible;
- (3) Conspicuously mark the outside of any submission as containing confidential evidence or information;
- (4) Mark each page upon which confidential evidence or information appears; and
- (5) Submit a public copy from which claimed confidential evidence and information has been excised. Confidential evidence and information must be excised in such a way as to allow the public to determine the general nature of the evidence and information removed and to retain as much of the otherwise public evidence and information as possible.

b. Form 22 will not be considered fully complete unless, for each confidentiality request, the person or party:

- (1) Enumerates the specific grounds in Iowa Code chapter 22 or other applicable law that support treatment of the specific evidence or information as confidential;
- (2) Justifies why the specific evidence or information should be maintained in confidence;

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(3) Explains why disclosure of the specific evidence or information would not be in the best interest of the public; and

(4) Sets forth the name, address, telephone number, and e-mail address of the individual authorized by the person or party submitting such evidence and information to respond to inquiries from the office concerning the confidential status of such evidence and information.

c. Failure to request that evidence or information be treated as confidential as specified herein shall relieve the office and state personnel from any responsibility for maintaining the information in confidence. Persons may not request confidential treatment with respect to a notice of appeal or other similar documents. Blanket requests to maintain all evidence and information submitted as confidential will be categorically rejected.

129—20.6(8B,427) Contested cases. A contested case initiated pursuant to this chapter shall be a contested case proceeding and shall be conducted in accordance with the provisions of the office's rules governing contested case proceedings (129—Chapter 6) unless the provisions of this rule provide otherwise. The definitions in rule 129—6.2(8B,17A) shall also apply to this rule.

20.6(1) Notice of hearing. Upon receipt of a request for a contested case proceeding, the office shall inform the department of inspections and appeals of the filing and of relevant information pertaining to the appeal in question. The department of inspections and appeals shall send a written notice of the date, time and location of the hearing to all affected persons or parties who initiated a contested case related to the census block forming the basis of the contested case, or appealed the office's determination of the census block forming the basis of the contested case pursuant to subrule 20.5(1), or submitted evidence or information to the office pursuant to subrule 20.5(3) directly related to the census block forming the basis of the contested case. The presiding officer shall hold a hearing on the matter within 60 days of the date the notice of appeal was received by the office.

20.6(2) Consolidation. In the event any contested cases concerning the same census block are initiated separately, such matters shall be consolidated.

20.6(3) Discovery. The parties shall serve any discovery requests upon other parties at least 30 days prior to the date set for the hearing. The parties must serve responses to discovery at least 15 days prior to the date set for the hearing.

20.6(4) Witnesses and exhibits. The parties shall contact each other regarding witnesses and exhibits at least 10 days prior to the date set for the hearing. In order to avoid duplication or the submission of extraneous materials, the parties must meet, either in person, by telephone, or by electronic means, prior to the hearing regarding the evidence to be presented.

20.6(5) Telephone hearing. If the hearing is conducted by telephone or other electronic means, the parties must deliver all exhibits to the office of the presiding officer at least 3 days prior to the time the hearing is conducted. Telephone hearings shall be strongly encouraged.

These rules are intended to implement Iowa Code sections 8B.1, 8B.10, 17A.3, and 427.1(40).

CHAPTER 21

BROADBAND INFRASTRUCTURE—PROJECT CERTIFICATION

129—21.1(8B,427) Definitions. The definitions in rule 129—20.1(8B,427) shall apply to this chapter.

129—21.2(8B,427) Scope. This chapter applies to communications service providers who request certification pursuant to Iowa Code section 427.1(40) from the office that an installation of the broadband infrastructure is being performed or was completed in a targeted service area, and that the broadband infrastructure installed facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

129—21.3(8B,427) Application for certification. Applications for certification shall be completed and submitted online at <http://ocio.iowa.gov/>. In order to receive certification from the office, applications must be filled out in their entirety. Communications service providers making application to the office

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will be required to certify that all of the information contained in the application is accurate. If it is later determined that any of the information contained in the application is inaccurate, the office may revoke the certification, in whole or in part. An application for certification shall include without limitation the following information:

1. The communications service provider's legal and business name and address and the name, address, telephone number, and e-mail address of the person authorized by the communications service provider to respond to inquiries regarding the application for certification;
2. The census block number(s) as provided on the statewide map referenced in rule 129—20.4(8B,427) for the targeted service area(s) forming the basis of the application (i.e., the targeted service area in which the installation of the broadband infrastructure is being performed or was completed);
3. Attestation that the broadband infrastructure installed in the targeted service area(s) facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed; and
4. Any other information as requested in the application.

129—21.4(8B,427) Time of filing. Except as otherwise authorized by the office, an application for certification shall be deemed filed on the date of its online submission pursuant to rule 129—21.3(8B,427). Notwithstanding the foregoing, except as otherwise authorized by the office, an application for certification will not be deemed filed prior to the expiration of the initial 20-day appeal period specified in 129—subrule 20.5(1).

129—21.5(8B,427) Notice of decision and issuance of certificate. The office shall notify the communications service provider by electronic means of its decision regarding an application for certification within 30 days of the filing of an application and, if appropriate, shall issue a certification by electronic means within that same time frame. If the decision is to deny the application or part of the application, such notice shall include a concise statement of the office's reasons for such denial, in whole or in part. A determination by the office to deny an application for certification, in whole or in part, may be appealed pursuant to 129—Chapter 6.

129—21.6(8B,427) Contents of certification. The certification shall state the communications service provider for which the certification is being issued, the census block number(s) (as provided on the map referenced in rule 129—21.4(8B,427)) of the targeted service area(s) for which the certification is being issued and county(s) in which such targeted service area(s) resides, that the office has determined the census block(s) in which the installation is being performed or was completed are targeted service area(s), that the broadband infrastructure installed facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed, and the date on which the certification is issued by the office. Such certification shall be signed by the CIO.

129—21.7(8B,427) Targeted service areas subject to challenge. To the extent an application for certification satisfies all other requirements of this chapter, if at the time such application is filed the office's determination of whether a particular census block forming the basis of such application, in whole or in part, is a targeted service area currently subject to challenge pursuant to the appeal and contested case procedures set forth in 129—Chapter 20, or the judicial review and appeal procedures outlined in Iowa Code sections 17A.19 and 17A.20, the office will issue a certification. Notwithstanding the foregoing, the aspect(s) of the office's certification concerning census blocks forming the basis of the application for certification that is currently subject to such challenge shall be purely contingent and valid only to the extent the office's original determination is ultimately upheld at the end of the entire appeals process once final, including judicial review and any subsequent appeal. For purely administrative purposes, if a portion of an application for certification is later deemed invalid by operation of this rule, the office may require the communications service provider to file a new application pursuant to rule 129—21.3(8B,427).

CHIEF INFORMATION OFFICER, OFFICE OF THE[129](cont'd)

129—21.8(8B,427) Certification of completion and field testing. To the extent applicable, after an installation of broadband infrastructure certified by the office is fully installed in a targeted service area, the communications service provider for which a certification was issued must certify to the office that such installation facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed. The office may, in its discretion, conduct field tests for compliance with the requirements of Iowa Code section 427.1(40) “b” at any time after broadband service is available in a targeted service area. As applicable, noncompliance may be reported to the attorney general, the department of revenue, or applicable county board of supervisors.

21.8(1) In the case of wireline and fixed wireless installations, the office may conduct speed tests from any of the following:

- a. The communications service providers network operation center or central office.
- b. A location in the targeted service area including but not limited to at a digital subscriber line access multiplexer, node or fiber recognition hut.
- c. The demarcation point of a home, business, school, or farm located in the applicable targeted service area, or any other location reasonably identified by the office.

21.8(2) In the case of mobile installations, the office may conduct speed tests from any of the following:

- a. The communications service providers network operation center or central office.
- b. A tower site in the targeted service area.
- c. A location near a home, business, school, or farm located in the applicable targeted service area, or any other location reasonably identified by the office.

These rules are intended to implement Iowa Code sections 8B.1, 8B.3, 8B.15, 17A.3, and 427.1(40).

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CITY FINANCE COMMITTEE[545]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 384.15, the City Finance Committee hereby gives Notice of Intended Action to amend Chapter 2, “Budget Amendments and Fund Transfers,” Iowa Administrative Code.

The proposed amendment to subrule 2.5(5) reflects a change in calculating a surplus balance in city utility and enterprise funds according to Governmental Accounting Standards Board (GASB) Statement No. 68.

Any interested person may make written suggestions or comments on the proposed amendment on or before September 20, 2016. Such written materials should be directed to Ted Nellesen, Department of Management, State Capitol, Des Moines, Iowa 50309; or by e-mail to ted.nellesen@iowa.gov. Persons who wish to convey their views orally should contact Ted Nellesen at (515)281-3705.

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

The Committee does not intend to grant waivers to these rules.

This amendment is intended to implement Iowa Code chapter 384.

The following amendment is proposed.

Amend subrule 2.5(5) as follows:

2.5(5) City utility fund and city enterprise fund. Any governing body of a city utility, combined utility system, city enterprise, or combined city enterprise which has a surplus in its fund may transfer

CITY FINANCE COMMITTEE[545](cont'd)

such surpluses to any other city fund, except the emergency fund, by resolution of the appropriate governing body. For the purposes of this subrule, ~~a:~~

a. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the utility or enterprise fund.

b. A surplus shall be defined as the cash balance in the operating account or the unrestricted ~~retained earnings net position~~ calculated in accordance with GAAP, after adding back the net pension and other postemployment benefits liabilities and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:

~~a.~~ (1) The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months, and;

~~b.~~ (2) The amount necessary to make all required transfers to restricted accounts for the succeeding three months.

ARC 2701C**DENTAL BOARD[650]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.34 and 153.21, the Dental Board hereby gives Notice of Intended Action to amend Chapter 11, “Licensure to Practice Dentistry or Dental Hygiene,” Iowa Administrative Code.

The purposes of the proposed amendments are to allow applicants applying for licensure by examination to take the same nationally recognized regional examinations currently accepted for applicants who apply for licensure by credentials; to require applicants who have held licenses in other states for one year or longer to apply for licensure by credentials; to clarify the practice requirements for applicants applying for licensure by credentials; to remove special transitional period language that is no longer applicable; to remove references to the Healthcare Integrity and Protection Data Bank; and to allow jurisprudence examinations to be administered by other entities.

These amendments would allow applicants applying for licensure the ability to show successful completion of any of the nationally recognized regional examinations without regard to the basis for application.

These amendments would require applicants who have held a license in another state for one year or longer to make application by credentials to allow for better verification of applicants’ qualifications.

These amendments further clarify the three-year practice requirements for applicants who apply by credentials.

These amendments remove references to the transition period for applicants who make application for licensure by examination as such a period would no longer be necessary.

These amendments remove references to the Healthcare Integrity and Protection Data Bank, which merged with the National Practitioner Data Bank in 2013.

These amendments would allow other entities to administer the Board-approved jurisprudence examination in order to make it more widely accessible.

Any interested person may make written comments on the proposed amendments until 2 p.m. on September 21, 2016. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309; or sent by e-mail to phil.mccollum@iowa.gov.

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There will be a public hearing on September 21, 2016, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

The proposed amendments are subject to waiver or variance pursuant to 650—Chapter 7.

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

These amendments are intended to implement Iowa Code chapters 147 and 153.

The following amendments are proposed.

ITEM 1. Amend subrule 11.2(1) as follows:

11.2(1) Applications for licensure by examination to practice dentistry in this state shall be made on the form provided by the board and must be ~~complete and include~~ completely answered, including required credentials and documents. An applicant who has held a dental license issued in another state for one year or longer must apply for licensure by credentials pursuant to rule 650—11.3(153).

ITEM 2. Rescind paragraph **11.2(2)“c.”**

ITEM 3. Reletter paragraphs **11.2(2)“d”** to **“j”** as **11.2(2)“c”** to **“i.”**

ITEM 4. Amend relettered paragraph **11.2(2)“c”** as follows:

c. Documentation of passage of national dental examination. Evidence of successful completion of the examination administered by the Joint Commission on National Dental Examinations. ~~Any dentist who has lawfully practiced dentistry in another state or territory for five years may be exempted from presenting this evidence.~~

ITEM 5. Amend relettered paragraph **11.2(2)“d”** as follows:

d. Documentation of passage of a regional clinical examination.

(1) Successful passage of ~~CRDTS~~ a regional clinical examination within the previous five-year period. ~~Evidence of having successfully completed in the last five years the examination administered by the Central Regional Dental Testing Service, Inc. (CRDTS).~~

(2) Special transition period for dentists passing WREB or ADEX examination prior to September 1, 2011. ~~An applicant who has successfully taken and passed the WREB or ADEX examination within the five years prior to September 1, 2011, may apply for licensure by examination by submitting evidence of successful completion of the WREB or ADEX examination.~~ The following regional examinations are approved by the board for purposes of licensure by examination: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board (WREB), Southern Regional Testing Agency, Inc. (SRTA), and American Board of Dental Examiners, Inc. (ADEX).

ITEM 6. Amend relettered paragraph **11.2(2)“e”** as follows:

e. Explanation of any legal or administrative actions. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, ~~including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).~~

ITEM 7. Amend relettered paragraph **11.2(2)“g”** as follows:

g. Documentation of passage of jurisprudence examination. Evidence of successful completion of ~~the a board-approved~~ jurisprudence examination ~~administered by the Iowa dental board.~~

ITEM 8. Amend subparagraph **11.3(2)“e”(1)** as follows:

(1) ~~Passed an examination approved by the board in accordance with Iowa Code section 147.34(1) and administered by a regional or national testing service. The clinical examinations approved by the board are specified in 650—subrule 12.1(5) Has less than three consecutive years of practice immediately prior to the filing of the application and successful passage of a regional clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by credentials: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board (WREB), Southern Regional Testing Agency, Inc. (SRTA), and American Board of Dental Examiners, Inc. (ADEX); or~~

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ITEM 9. Amend paragraph **11.3(2)“g”** as follows:

g. A statement disclosing and explaining any disciplinary actions, investigations, malpractice claims, complaints, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 10. Amend paragraph **11.3(2)“j”** as follows:

j. Evidence of successful completion of the a board-approved jurisprudence examination administered by the Iowa dental board.

ITEM 11. Amend subrule 11.5(1) as follows:

11.5(1) Applications for licensure to practice dental hygiene in this state shall be made on the form provided by the dental hygiene committee and must be completely answered, including required credentials and documents. An applicant who has held a dental hygiene license issued in another state for one year or longer must apply for licensure by credentials pursuant to rule 650—11.6(153).

ITEM 12. Rescind paragraph **11.5(2)“c.”**

ITEM 13. Reletter paragraphs **11.5(2)“d”** to **“j”** as **11.5(2)“c”** to **“i.”**

ITEM 14. Amend relettered paragraph **11.5(2)“c”** as follows:

c. ~~Documentation of completion~~ passage of national dental hygiene examination. Evidence of successful completion of the examination administered by the Joint Commission on National Dental Examinations.

ITEM 15. Amend relettered paragraph **11.5(2)“d”** as follows:

d. Passage Documentation of passage of a regional clinical examination.

(1) Successful passage of ~~CRDTS~~ a regional clinical examination within the previous five-year period. Evidence of having successfully completed in the last five years the examination administered by the Central Regional Dental Testing Service, Inc. (CRDTS).

(2) ~~Special transition period for dental hygienists passing WREB examination prior to September 1, 2011. An applicant who has successfully taken and passed the WREB examination within the five years prior to September 1, 2011, may apply for licensure by examination by submitting evidence of successful completion of the WREB examination.~~ The following regional examinations are approved by the board for purposes of licensure by examination: Central Regional Dental Testing Service(CRDTS), Western Regional Examining Board (WREB), Southern Regional Testing Agency, Inc. (SRTA), and American Board of Dental Examiners, Inc. (ADEX).

ITEM 16. Amend relettered paragraph **11.5(2)“f”** as follows:

f. Documentation of passage of jurisprudence examination. Evidence of successful completion of the a board-approved jurisprudence examination administered by the dental hygiene committee.

ITEM 17. Amend relettered paragraph **11.5(2)“h”** as follows:

h. Explanation of any legal or administrative actions. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 18. Amend paragraph **11.6(2)“b”** as follows:

b. Evidence of successful completion of the examination of the Joint Commission on National Dental Examinations or evidence of having passed a written examination that is comparable to the examination given by the Joint Commission on National Dental Examinations. Any dental hygienist who has lawfully practiced dental hygiene in another state or territory for five or more years may be exempted from presenting this evidence.

ITEM 19. Amend subparagraph **11.6(2)“e”(1)** as follows:

(1) ~~Passed an examination approved by the board in accordance with Iowa Code section 147.34(1) and administered by a regional or national testing service. The clinical examinations approved by~~

DENTAL BOARD[650](cont'd)

~~the board are specified in 650—subrule 12.3(5). Has less than three consecutive years of practice immediately prior to the filing of the application and successful passage of a regional clinical examination within the previous five-year period. The following regional examinations are approved by the board for purposes of licensure by credentials: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board (WREB), Southern Regional Testing Agency, Inc. (SRTA), and American Board of Dental Examiners, Inc. (ADEX); or~~

ITEM 20. Amend paragraph **11.6(2)“g”** as follows:

g. A statement disclosing and explaining any disciplinary actions, investigations, complaints, malpractice claims, judgments, settlements, or criminal charges, including the results of a self-query of the National Practitioners Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB).

ITEM 21. Amend paragraph **11.6(2)“j”** as follows:

j. Successful completion of ~~the a board-approved~~ jurisprudence examination administered by the dental hygiene committee.

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DENTAL BOARD[650]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.34 and 153.21, the Dental Board hereby gives Notice of Intended Action to amend Chapter 12, “Dental and Dental Hygiene Examinations,” Iowa Administrative Code.

The purposes of the proposed amendments are to allow applicants applying for licensure by examination to take the same nationally recognized regional examinations currently accepted for applicants who apply for licensure by credentials; to require applicants to take all parts of the examination offered by each respective testing agency; to refer applicants to the policies and procedures of each respective testing agency; and to strike language that is outdated.

These amendments would allow applicants applying for licensure the ability to show successful completion of any of the nationally recognized regional examinations without regard to the basis for application.

Any interested person may make written comments on the proposed amendments until 2 p.m. on September 21, 2016. Such written materials should be directed to Phil McCollum, Associate Director, Iowa Dental Board, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa 50309; or sent by e-mail to phil.mccollum@iowa.gov.

There will be a public hearing on September 21, 2016, at 2 p.m. in the Board office, 400 S.W. Eighth Street, Suite D, Des Moines, Iowa, at which time persons may present their views orally or in writing.

The proposed amendments are subject to waiver or variance pursuant to 650—Chapter 7.

After analysis and review of this rule making, there is no impact on jobs.

These amendments are intended to implement Iowa Code section 147.36.

The following amendments are proposed.

ITEM 1. Amend rule 650—12.1(147,153) as follows:

650—12.1(147,153) Clinical examination procedure for dentistry.

~~**12.1(1) Completion of regional clinical examination required.**~~

DENTAL BOARD[650](cont'd)

a.—~~CRDTS accepted for licensure by examination.~~ To meet the requirements for dental licensure by examination, applicants shall complete the examination administered by the Central Regional Dental Testing Service, Inc. (CRDTS).

b.—~~Special transition period for dentists passing WREB or ADEX examination prior to September 1, 2011.~~ An applicant who has successfully passed the WREB or ADEX examination prior to September 1, 2011, may apply for licensure by examination.

~~12.1(2)~~ **12.1(1)** *Compliance with regional clinical examination testing requirements and procedures.*

a. ~~CRDTS.~~ Examinees shall meet the requirements for testing and follow the procedures established by the Central Regional Dental Testing Service, Inc. each respective testing agency. Examinees must take all parts offered by the respective testing agency.

b.—~~Special transition period for dentists passing WREB or ADEX examination prior to September 1, 2011.~~ Examinees who have completed the WREB or ADEX examination prior to September 1, 2011, shall meet the requirements for testing and follow the procedures established by WREB or ADEX.

~~12.1(3)~~ **12.1(2)** *Scoring requirements.* The examinee must attain a comprehensive score that meets the standard for passing established by each respective testing agency.

a.—Prior to April 1, 1995, the examinee must attain an average grade of not less than 70 percent on each clinical portion of the examination and 70 percent on the written portion of the examination.

b.—Between April 1, 1995, and December 31, 2000, the examinee must attain an average grade of not less than 75 percent on each clinical portion of the examination and 75 percent on the written portion of the examination.

c.—Between January 1, 2001, and June 22, 2011, the examinee must attain a comprehensive score that meets the standard for passing established by ADEX, CRDTS, or WREB.

d.—Post June 22, 2011, and special transition period.

(1) ~~Effective June 22, 2011, the examinee must attain a comprehensive score that meets the standard for passing established by CRDTS.~~

(2) ~~Special transition period for dentists passing WREB or ADEX.~~ Examinees who successfully complete the WREB or ADEX examination by September 1, 2011, must attain a comprehensive score that meets the standard for passing established by WREB or ADEX.

~~12.1(4)~~ **12.1(3)** *Compliance with performance clinical operations requirements.*

a. Each examinee shall be required to perform such clinical operations as may be required by the Central Regional Dental Testing Service, Inc. each respective testing agency, for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

b.—Special transition period for dentists passing WREB or ADEX. Examinees who successfully complete the WREB or ADEX examination by September 1, 2011, shall be required to perform such clinical operations as may be required by WREB or ADEX for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dentistry.

~~12.1(5)~~ *Clinical examinations accepted for purposes of licensure by credentials.* The board is authorized by 2011 Iowa Code Supplement section 153.21 to establish the regional or national testing service examinations that will be accepted for purposes of licensure by credentials. The following regional examinations are approved by the board for purposes of application for licensure by credentials submitted pursuant to 650 Chapter 11: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board, Inc. (WREB), Southern Regional Testing Agency (SRTA), North East Regional Board of Dental Examiners (NERB), and Council of Interstate Testing Agencies (CITA).

ITEM 2. Amend subrule 12.2(1) as follows:

12.2(1) *Method of counting failures.*

a. ~~Integrated format.~~ For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS each respective testing agency. A dental examinee who has not passed all five parts of the integrated examination format by June 30 following graduation from dental school shall have one examination failure recorded. The dental examinee must then retake all five parts of the examination in the traditional format.

DENTAL BOARD[650](cont'd)

~~b. Traditional format. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS. A dental examinee who fails one or more parts of the examination shall have one examination failure recorded. A dental examinee shall be required to retake only those parts of the examination that the examinee failed. A dental examinee who has not passed all five parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination.~~

~~e. A dental examinee who has two examination failures in the traditional format will be required to complete remedial education requirements set forth in subrule 12.2(2).~~

ITEM 3. Amend paragraph **12.2(2)“b”** as follows:

~~b. A dental examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental examinee who has not passed all five parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination. The dental examinee shall refer to the policies of each respective testing agency to determine applicable time frames.~~

ITEM 4. Amend paragraph **12.2(3)“b”** as follows:

~~b. At the fourth examination, the dental examinee shall be required to retake only those parts of the examination that the examinee failed. However, a dental examinee who has not passed all five parts of the examination within the time frame specified by CRDTS shall be required to retake the entire examination. The dental examinee shall refer to the policies of each respective testing agency to determine applicable time frames.~~

ITEM 5. Amend subrule 12.2(5) as follows:

~~**12.2(5) Failures of other examinations.** If a dental examinee applies for the Central Regional Dental Testing Service, Inc., an examination after having failed any other state or regional examination examinations, the failure shall be considered a CRDTS failure counted for the purposes of retakes.~~

ITEM 6. Amend rule 650—12.3(147,153) as follows:

650—12.3(147,153) Clinical examination procedure for dental hygiene.

~~**12.3(1) Completion of regional clinical examination required.**~~

~~a. *CRDTS accepted for licensure by examination.* To meet the requirements for dental hygiene licensure by examination, applicants shall complete the examination administered by the Central Regional Dental Testing Service, Inc.~~

~~b. *Special transition period for dentists passing WREB examination prior to September 1, 2011.* An applicant who has successfully passed the WREB examination prior to September 1, 2011, may apply for licensure by examination.~~

~~**12.3(2) 12.3(1) Compliance with regional clinical examination testing requirements and procedures.**~~

~~a. *CRDTS.* Examinees shall meet the requirements for testing and follow the procedures established by the Central Regional Dental Testing Service, Inc each respective testing agency. Examinees must take all parts offered by the respective testing agency.~~

~~b. *Special transition period for dentists passing WREB examination prior to September 1, 2011.* Examinees who successfully complete the WREB examination prior to September 1, 2011, shall meet the requirements for testing and follow the procedures established by WREB.~~

~~**12.3(3) 12.3(2) Scoring requirements.** The examinee must attain a comprehensive score that meets the standard for passing established by each respective agency.~~

~~a. Prior to December 31, 2003, the examinee must attain an average grade of 70 percent on the examination.~~

~~b. Between January 1, 2004, and June 22, 2011, the examinee must attain a comprehensive score that meets the standard for passing established by CRDTS or WREB.~~

~~c. Post June 22, 2011, and special transition period.~~

~~(1) Effective June 22, 2011, the examinee must attain a comprehensive score that meets the standard for passing established by CRDTS.~~

DENTAL BOARD[650](cont'd)

~~(2) Special transition period for dental hygienists passing WREB. Examinees who successfully complete the WREB examination by September 1, 2011, must attain a comprehensive score that meets the standard for passing established by WREB.~~

~~12.3(4) 12.3(3) Practical demonstrations.~~ Each examinee shall be required to perform such practical demonstrations as may be required by the Central Regional Dental Testing Service, Inc., each respective testing agency for the purpose of sufficiently evaluating and testing the fitness of the examinee to practice dental hygiene.

~~12.3(5) Clinical examinations accepted for purposes of licensure by credentials.~~ The board is authorized by 2011 Iowa Code Supplement section 153.21 to establish the regional or national testing service examinations that will be accepted for purposes of licensure by credentials. The following regional examinations are approved by the board for purposes of application for licensure by credentials submitted pursuant to 650 Chapter 11: Central Regional Dental Testing Service, Inc. (CRDTS), Western Regional Examining Board, Inc. (WREB), Southern Regional Testing Agency (SRTA), North East Regional Board of Dental Examiners (NERB), and Council of Interstate Testing Agencies (CITA).

ITEM 7. Amend paragraph 12.4(1)“a” as follows:

a. For the purposes of counting examination failures, the board shall utilize the policies adopted by CRDTS each respective testing agency.

ITEM 8. Rescind paragraph 12.4(1)“b.”

ITEM 9. Reletter paragraph 12.4(1)“c” as 12.4(1)“b.”

ITEM 10. Amend subrule 12.4(5) as follows:

12.4(5) Failures of other examinations. If a dental hygiene examinee applies for the Central Regional Dental Testing Service, Inc. an examination after having failed any other state or regional examination examinations, the failure shall be considered a CRDTS failure counted for the purposes of retakes.

ARC 2689C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” Iowa Administrative Code.

The proposed amendment reflects the requirement for the Board to adopt rules as a result of recent legislative changes to Iowa Code section 272.28. Language has been added to allow additional educational settings to be used as evidence of successful teaching experience required to achieve a standard teaching license.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, September 23, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319; or sent by e-mail to kim.cunningham@iowa.gov; or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 21, 2016, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

This amendment is not subject to waiver, as it is required by statute.

After analysis and review of this rule making, there is no anticipated impact on jobs.

This amendment is intended to implement Iowa Code sections 272.2(1)“a” and 272.28 as amended by 2016 Iowa Acts, Senate File 2323.

The following amendment is proposed.

Amend rule 282—13.7(272) as follows:

282—13.7(272) Specific requirements for a standard license. A standard license valid for five years may be issued to an applicant who:

1. Meets the general requirements set forth in rule 282—13.5(272), and
2. Shows evidence of successful completion of a state-approved mentoring and induction program by meeting the Iowa teaching standards as determined by a comprehensive evaluation and two years' successful teaching experience within the applicant's approved endorsement area(s). In lieu of completion of an Iowa state-approved mentoring and induction program, the applicant must provide evidence of three years' successful teaching experience ~~in an Iowa nonpublic school or three years' successful teaching experience in an out-of-state K-12 educational setting.~~ within the applicant's approved endorsement area(s) at any of the following:
 - An accredited nonpublic school in this state.
 - A preschool program approved by the United States Department of Health and Human Services.
 - Preschool programs at school districts approved to participate in the preschool program under Iowa Code chapter 256C.
 - Shared visions programs receiving grants from the child development coordinating council under Iowa Code section 256A.3.
 - Preschool programs receiving moneys from the school ready children grants account of the early childhood Iowa fund created in Iowa Code section 256I.11.
 - An out-of-state PK-12 educational setting.

ARC 2690C

EDUCATIONAL EXAMINERS BOARD[282]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2(1)“a,” the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 13, “Issuance of Teacher Licenses and Endorsements,” and Chapter 22, “Authorizations,” Iowa Administrative Code.

The proposed amendments reflect the requirement for the Board to adopt rules as a result of recent legislative changes to Iowa Code section 272.31. Language has been added to allow for issuance of

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

a transitional coaching authorization. The Board has also added language requiring coaches to obtain certified CPR training.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, September 23, 2016. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319; or sent by e-mail to kim.cunningham@iowa.gov; or by fax to (515)281-7669.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, September 21, 2016, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

These amendments regarding CPR certification are subject to waiver pursuant to 282—Chapter 6. The amendments regarding the transitional coaching authorization are not subject to waiver, as they are required by statute.

After analysis and review of this rule making, there is no anticipated impact on jobs.

These amendments are intended to implement Iowa Code sections 272.2(1)“a” and 272.31 as amended by 2016 Iowa Acts, House File 228.

The following amendments are proposed.

ITEM 1. Amend subrule 13.28(29) as follows:

13.28(29) Athletic coach. K-12. An applicant for the coaching endorsement must hold a teacher’s license with one of the teaching endorsements.

a. No change.

b. *Program requirements.*

(1) to (4) No change.

(5) Successful completion of the concussion training approved by the Iowa High School Athletic Association or Iowa Girls High School Athletic Union, and

(6) A current certificate of CPR training.

ITEM 2. Amend rule 282—22.1(272) as follows:

282—22.1(272) Coaching authorization. A coaching authorization allows an individual to coach any sport in a middle school, junior high school, or high school.

22.1(1) No change.

22.1(2) Requirements. Applicants for the coaching authorization shall have completed the following requirements:

a. *Credit hours.* Applicants must complete credit hours in the following areas:

(1) to (6) No change.

(7) Successful completion of CPR training as verified by a current certificate.

b. and *c.* No change.

22.1(3) No change.

22.1(4) Renewal. The authorization may be renewed upon application and verification of successful completion of:

a. Renewal activities. Applicants for renewal of a coaching authorization must:

(1) to (3) No change.

(4) Provide a current certificate of CPR training.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

b. No change.

22.1(5) and **22.1(6)** No change.

22.1(7) *Transitional coaching authorization.*

a. Application process. Any person interested in the transitional coaching authorization shall submit a complete application verifying the requirements listed below. Application materials are available from the board of educational examiners online at <http://www.boee.iowa.gov/>.

b. Requirements. Applicants for the transitional coaching authorization shall have completed each of the following requirements:

(1) Verification that the applicant has not completed the coursework required for a coaching authorization.

(2) Verification of an offer of a coaching position by a school or a consortium of schools that will additionally verify that:

1. No fully authorized coaching candidates were found after a diligent search,

2. The transitional coach will be supervised by a licensed athletic director, administrator, or other practitioner serving in a supervisory role during the first two weeks of employment, and

3. The supervisor will evaluate the performance of the transitional coach using an evaluation form available on the school's Web site.

(3) Successful completion of an approved shortened course of training related to the code of professional rights and responsibilities, practices, and ethics specifically developed for transitional coaches.

(4) Successful completion of an approved child and dependent adult abuse mandatory reporter training course.

(5) Successful completion of a nationally recognized concussion in youth sports training course.

(6) Verification that the applicant has attained a minimum age of 21 years.

(7) Verification of completion of the background check requirements set forth in rule 282—13.1(272).

c. Validity. The transitional coaching authorization shall be valid for no more than one year and shall be valid only in the school or consortium of schools making the offer of the coaching position.

d. Renewal. The transitional coaching authorization is nonrenewable.

e. Revocation and suspension. Criteria of professional practice and rules of the board of educational examiners shall apply to holders of a transitional coaching authorization. An ethics complaint may be filed if a practitioner begins coaching a sport without current concussion training.

ARC 2702C

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 217.6 and 2015 Iowa Acts, Senate File 500, sections 119, 120, and 124, the Department of Human Services proposes to amend Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

These proposed amendments update Division VI of Chapter 99 to conform the rules to statutory changes regarding the suspension of court orders for child and medical support. The amendments offer an additional way for an obligor to suspend a child support order when the child goes to live with the obligor and the obligee does not respond to the request to suspend under the current process in Iowa Code section 252B.20.

HUMAN SERVICES DEPARTMENT[441](cont'd)

The amendments also update the existing suspension process in accordance with Iowa Code section 252B.20 to allow for suspension of the child support order if the child goes to live with a caretaker who does not want child support and both parents consent to the suspension. The amendments also add the ability to suspend the child support order if the child goes to live with a caretaker who does not want child support when the obligor requests the suspension but the obligee will not consent pursuant to Iowa Code section 252B.20A. In both processes, the suspension request will be allowed only in cases where the caretaker does not want child support and the child is not on public assistance.

These proposed amendments also update rule 441—99.27(252F) to conform the rule to a statutory change regarding genetic testing, which allows specimens or results of previous genetic testing of the mother and child to be reused, rather than having the mother and child resubmit samples for actions against each subsequent alleged father, and streamlines the methods used under Iowa Code section 252F.3.

Any interested person may make written comments on the proposed amendments on or before September 20, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

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

These amendments are intended to implement Iowa Code section 217.6 and 2015 Iowa Acts, Senate File 500, sections 119, 120, and 124.

The following amendments are proposed.

ITEM 1. Amend rule 441—99.27(252F) as follows:

441—99.27(252F) Paternity contested. The alleged father may contest the paternity establishment by submitting, within 20 calendar days after service of the notice upon him, as provided in rule 441—99.23(252F), a written statement contesting paternity to the address of the unit as set forth in the notice. The mother may contest paternity establishment by submitting, within 20 calendar days after the unit mailed her notice of the action or within 20 calendar days after the alleged father is served with the original notice, whichever is later, a written statement contesting paternity to the address of the unit as set forth in the notice. When paternity is contested, or at the unit's initiative, the unit shall issue ex parte administrative orders requiring the alleged father, the mother and the child to submit to paternity testing. If the mother and child or children previously submitted blood or genetic specimens in a prior action to establish paternity against a different alleged father, the previously submitted specimens and prior results, if available, may be used for testing in this action.

ITEM 2. Amend **441—Chapter 99, Division VI**, by adding the following **new** Part A title to follow the division title:

PART A
SUSPENSION BY MUTUAL CONSENT

ITEM 3. Amend rule 441—99.101(252B) as follows:

441—99.101(252B) Definitions. As used in this ~~division part~~, unless the context otherwise requires:

“Caretaker” means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

“Child” shall mean means the same as defined in Iowa Code section 252E.1.

“Child support recovery unit” or “unit” shall mean means the same as defined in rule 441—95.1(252B) and Iowa Code section 252B.1.

“Obligee” shall mean the same as defined in rule 441—98.1(73GA, ch 1224) means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

HUMAN SERVICES DEPARTMENT[441](cont'd)

“Obligor” shall mean the same as defined in rule 441—98.1(73GA, ch1224) means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

“Public assistance” shall mean means the same as defined in Iowa Code section 252H.2.

“Spousal support” shall mean means either a set amount of monetary support, or medical support as defined in Iowa Code section 252E.1, for the benefit of a spouse or former spouse, including alimony, maintenance, or any other term used to describe these obligations.

“Step change” shall mean means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

“Support” shall mean means the same as defined in Iowa Code section 252D.16, and shall include spousal support and support for a child.

“Support for a child” shall mean means either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in this rule.

“Support order” shall mean means the same as a “court order” as defined in Iowa Code section 252C.1.

ITEM 4. Amend rule 441—99.102(252B) as follows:

441—99.102(252B) Availability of service. The child support recovery unit shall provide the services described in this ~~division part~~ only with respect to support orders entered or registered in this state for which the unit is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

99.102(1) Services described in this ~~division part~~ shall only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order under Iowa Code chapter 252K.

99.102(2) Services described in this ~~division part~~ shall be provided only if no prior request for suspension of all or part of a support order has been filed with the unit pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by the unit pursuant to Iowa Code section 252B.20A during the two-year period preceding the request. ~~However, if the request was filed during the two-year period preceding July 1, 2005, and the unit denied the request because the suspension did not apply to all children for whom support is ordered, the unit shall provide suspension services if the parents jointly file a request on or after July 1, 2005.~~

ITEM 5. Amend subrule 99.103(2) as follows:

99.103(2) Change in residency. The unit shall assist an obligor and obligee in suspending support for a child when the child is residing with the obligor; however, the unit shall not assist in suspending any spousal support provisions of a support order on this basis. The unit shall also assist an obligor and obligee in suspending support for a child residing with a caretaker who has not requested unit services, if the child is not receiving public assistance.

ITEM 6. Amend subrule 99.103(3), introductory paragraph, as follows:

99.103(3) Affected children. The unit shall assist an obligor and obligee in suspending all or part of a support order as provided in this ~~division part~~ if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

ITEM 7. Amend subrule 99.103(4) as follows:

99.103(4) Limited to current support. The provisions in this ~~division part~~ for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

ITEM 8. Amend subrule 99.104(2) as follows:

99.104(2) Acknowledging requests Denying a request. The local unit providing services shall issue a written notice to the obligor and obligee indicating ~~whether that~~ a properly completed request is ~~accepted or~~ denied.

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. This notice shall be sent by first-class regular mail to the ~~last-known~~ last-known address of the obligor and obligee; or, if applicable, to the ~~last-known~~ last-known address of the obligor's or obligee's attorney.

b. If the basis for suspension is reconciliation, one notice shall be sent to the address shared by the obligor and obligee. If the basis for suspension is a change in residency of the children entitled to support, a separate notice shall be issued to the obligor and obligee at their respective ~~last-known~~ last-known addresses.

c. A The notice denying a request shall indicate the reason for denial.

d. A request for suspension shall be denied when the conditions specified in Iowa Code section 252B.20, rule 441—99.102(252B), or rule 441—99.103(252B) are not met.

e. Denial of a request is not subject to appeal or review under Iowa Code chapter 17A.

ITEM 9. Rescind subrule **99.104(3)**.

ITEM 10. Amend rule 441—99.105(252B), introductory paragraph, as follows:

441—99.105(252B) Order suspending support. ~~After approving~~ To approve a request to suspend support, the unit shall prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20.

ITEM 11. Amend **441—Chapter 99, Division VI**, by adding the following new Part B title to follow rule 441—99.106(252B):

PART B
SUSPENSION BY PAYOR'S REQUEST

ITEM 12. Rescind rule 441—99.107(252B) and adopt the following new rule in lieu thereof:

441—99.107(252B) Definitions. As used in this part, unless the context otherwise requires:

“*Caretaker*” means a natural person with whom a child is residing and who is not legally entitled to receive support for that child pursuant to the order that is the subject of the pending suspension request.

“*Child*” means the same as defined in Iowa Code section 252E.1.

“*Child support recovery unit*” or “*unit*” means the same as defined in rule 441—95.1(252B) and Iowa Code section 252B.1.

“*Obligee*” means a custodial parent or other natural person legally entitled to receive a support payment on behalf of a child.

“*Obligor*” means a noncustodial parent or other natural person who is ordered to pay support pursuant to the order that is the subject of the pending suspension request.

“*Public assistance*” means the same as defined in Iowa Code section 252H.2.

“*Step change*” means a change designated in a support order that specifies the amount of the child support obligation as the number of children entitled to support under the order changes.

“*Support*” means the same as defined in Iowa Code section 252D.16 and shall include support for a child.

“*Support for a child*” means either a set amount of monetary support (child support), or medical support as defined in Iowa Code section 252E.1, for the benefit of a child. This term does not include spousal support as defined in rule 441—99.101(252B).

“*Support order*” means the same as a “court order” as defined in Iowa Code section 252C.1.

ITEM 13. Rescind rule 441—99.108(252B) and adopt the following new rule in lieu thereof:

441—99.108(252B) Availability of service. The child support recovery unit shall provide the services described in this part only with respect to support orders entered pursuant to Iowa Code chapter 252A, 252C or 252F for which the unit is providing enforcement services in accordance with Iowa Code chapter 252B to collect current or accrued support.

99.108(1) Services described in this part shall only be provided if a court in this state would have continuing, exclusive jurisdiction to suspend and reinstate the order pursuant to Iowa Code chapter 252K.

HUMAN SERVICES DEPARTMENT[441](cont'd)

99.108(2) Services described in this part shall be provided only if no prior request for suspension of all or part of a support order has been filed with the unit pursuant to Iowa Code section 252B.20 and no prior request for suspension of all or part of a support order has been served by the unit pursuant to Iowa Code section 252B.20A during the two-year period preceding the request.

ITEM 14. Rescind rule 441—99.109(252B) and adopt the following **new** rule in lieu thereof:

441—99.109(252B) Basis for suspension of support.

99.109(1) *Child residing with obligor or caretaker.* The unit shall assist an obligor in suspending support for a child residing with the obligor or with a caretaker who has not requested unit services, if the child has been residing with the obligor or caretaker for more than 60 consecutive days.

99.109(2) *Orders eligible for suspension.*

a. The unit shall assist an obligor in suspending support for a child under this part only when there is no order in effect regarding legal custody, physical care, visitation or other parenting time for the child.

b. If an order exists that contains language regarding legal custody, physical care, visitation or other parenting time for the child, the unit shall deny the suspension request.

99.109(3) *Children on public assistance.* The children for whom ongoing support is being suspended shall not be receiving public assistance pursuant to Iowa Code chapter 239B or 249A or a comparable law of another state or foreign country, or if the children are receiving public assistance, the obligor must be considered to be a member of the same household as the children for the purposes of public assistance eligibility.

99.109(4) *Duration of conditions.* The basis for suspension of support under this part must reasonably be expected to continue for not less than six months from the date a request for assistance to suspend is received by the child support recovery unit.

99.109(5) *Affected children.* The unit shall assist an obligor in suspending all or part of a support order as provided in this part if the basis for suspension as described in this rule applies to the children entitled to support under the order to be suspended as follows:

a. If the basis for suspension applies to all of the children, the unit shall assist in suspending support obligations for all of the children.

b. If the basis for suspension applies to at least one but not all of the children and if the support order includes a step change, the unit shall assist in suspending the support obligations for children for whom the basis for suspension applies.

99.109(6) *Limited to current support.* The provisions in this part for suspending support apply only toward ongoing or current support. Any support that has accrued prior to the entry of an order suspending support, including judgments for past periods of time, is unaffected by the suspension.

ITEM 15. Rescind rule 441—99.110(252B) and adopt the following **new** rule in lieu thereof:

441—99.110(252B) Request for assistance to suspend. The obligor subject to a support order being enforced by the unit may request that the unit assist in having the ongoing support provisions suspended as follows:

99.110(1) *Submitting a request.*

a. A request for suspension shall be submitted to the local child support unit providing services using Form 470-5348, Request from the Payor to Suspend Support.

b. The unit shall provide Form 470-5348 to the obligor upon request.

c. The request form must be signed by the obligor affected by the order to be suspended.

d. The request shall contain sufficient information to allow the local unit to identify the court order and parties involved and shall attest that the children have lived in the obligor's household or the caretaker's household for more than 60 consecutive days and are expected to live there for at least six months.

99.110(2) *Submitting an affidavit.* After receiving a valid request for suspension, the local office shall provide the requestor with Form 470-5349, Affidavit Requesting Suspension of Support Based on Payor's Request.

HUMAN SERVICES DEPARTMENT[441](cont'd)

a. The obligor shall submit the affidavit for suspension to the local child support unit providing services. If the request for suspension is made pursuant to Iowa Code section 252B.20A(17), the caretaker must also submit an affidavit, Form 470-5349.

b. Form 470-5349 must be signed, attesting to the existence of the conditions under subrules 99.109(1) through 99.109(4). Form 470-5349 must be notarized.

c. If the obligor is requesting suspension of more than one order at the same time, the obligor shall be required to submit only one copy of Form 470-5348, identifying each order the request involves; however, the obligor shall be required to submit a separate, signed and notarized affidavit, Form 470-5849, for each order.

ITEM 16. Adopt the following **new** rule 441—99.111(252B):

441—99.111(252B) Determining eligibility for suspension. Upon receipt of the request for suspension and the properly executed and notarized affidavit, the unit shall review the request and the affidavit to determine that the criteria have been met.

99.111(1) *If the criteria are not met.* If the criteria have not been met, the local unit providing services shall issue a written notice to the obligor indicating that the request is denied.

a. The notice shall be sent by first-class regular mail to the last-known address of the obligor or, if applicable, to the last-known address of the obligor's attorney.

b. The notice shall indicate the reason for denial and notify the obligor of the right to proceed through private counsel. Denial of the request is not subject to contested case proceedings or further review pursuant to Iowa Code chapter 17A.

99.111(2) *If the criteria are met.* If the criteria are met, the unit shall proceed as follows:

a. The unit shall serve Form 470-5351, Notice of Intent to Payee to Suspend a Child Support Obligation Based on Payor's Request, and Form 470-5352, Payee's Affidavit Objecting to Suspension of Support, and supporting documents on the obligee by any means provided in Iowa Code section 252B.26. The notice to the obligee shall include all of the following:

(1) Information sufficient to identify the parties and the support order affected.

(2) An explanation of the procedure for suspension under Part B and reinstatement of support under Part C of this division.

(3) An explanation of the rights and responsibilities of the obligee to respond to the action.

(4) A statement that, within 20 days of service, the obligee must submit a signed and notarized response to the unit objecting to at least one of the assertions in subrules 99.109(1) through 99.109(4). The statement shall inform the obligee that if, within 20 days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding Rules of Civil Procedure 1.972(2) and 1.972(3), the unit will prepare and submit an order.

b. No sooner than 30 days after service on the obligee, the unit shall do one of the following:

(1) If the obligee submits a signed and notarized objection to at least one of the assertions in subrules 99.109(1) through 99.109(4), deny the request and notify the parties in writing that the request is denied, providing reasons for the denial, and notifying the parties of the right to proceed through private counsel. Denial of the request is not subject to contested case proceedings or further review pursuant to Iowa Code chapter 17A.

(2) If the obligee cannot be served, the local unit providing services shall issue a written notice to the obligor indicating the request is denied, following the procedure described in subrule 99.111(2).

(3) If the obligee does not timely submit a signed and notarized objection to the unit, prepare an order following the procedure described in rule 441—99.112(252B).

ITEM 17. Adopt the following **new** rule 441—99.112(252B):

441—99.112(252B) Order suspending support. After approving a request to suspend support and properly serving the obligee, the unit shall prepare and present to the district court an order suspending support as provided in Iowa Code section 252B.20A.

HUMAN SERVICES DEPARTMENT[441](cont'd)

99.112(1) The suspension shall apply to ongoing support provisions, including medical support, with respect to only the children entitled to support under the order who are residing with the obligor or caretaker.

99.112(2) A copy of the filed order shall be sent by first-class regular mail to the last-known address of the obligor and obligee or, if applicable, to the last-known address of the obligor's or obligee's attorney.

ITEM 18. Adopt the following new rule 441—99.113(252B):

441—99.113(252B) Suspension of enforcement of current support. The child support recovery unit shall suspend enforcement actions intended to collect or enforce any current support obligation that would have accrued during the time the support obligation is suspended. The unit shall continue to provide all appropriate enforcement services to collect any support not suspended and any arrearages that accrued before the effective date of the suspension.

ITEM 19. Amend **441—Chapter 99, Division VI**, by adding the following new Part C title to follow rule 441—99.113(252B):

PART C
REINSTATEMENT OF SUPPORT

ITEM 20. Adopt the following new rule 441—99.114(252B):

441—99.114(252B) Request for reinstatement. The unit may request that the court reinstate the suspended support obligation in accordance with the procedures found in Iowa Code sections 252B.20 and 252B.20A.

99.114(1) Either the obligor or the obligee affected by the suspended order may request reinstatement by submitting a written request for reinstatement to the child support recovery unit. The request must indicate that reinstatement is being requested and the reason for reinstatement and must contain sufficient information to identify the court order and parties involved. The request must also be signed by the requesting party.

99.114(2) The unit may, at its own initiative, request that the court reinstate a support obligation when it is determined that a child for whom the obligation was suspended is receiving public assistance benefits.

99.114(3) The unit shall issue a written notice approving or denying the request to any obligor or obligee requesting reinstatement. This notice shall be sent by first-class regular mail to the last-known address of the requesting party and shall indicate any reason for denial.

99.114(4) A properly completed request for reinstatement shall be denied when any of the following conditions exist:

a. The request is made by someone other than the obligor, the obligee, or the obligor's or obligee's attorney.

b. The unit is no longer providing enforcement services for the suspended order.

c. The request is received more than six months after the date of the filing of the order suspending support.

d. The request is for partial reinstatement of the suspended support order for some but not all of the children, and the order does not contain a step change.

e. A court in this state would not have continuing, exclusive jurisdiction to reinstate the order under Iowa Code chapter 252K.

ITEM 21. Adopt the following new rule 441—99.115(252B):

441—99.115(252B) Reinstatement. The child support recovery unit shall follow the procedures in Iowa Code sections 252B.20 and 252B.20A in seeking to have the court reinstate a support order.

99.115(1) The unit shall request that the court reinstate a spousal support provision previously suspended if the provision was included in the suspension in accordance with subrule 99.105(1) and if the unit receives a properly completed request from the obligor or the obligee.

HUMAN SERVICES DEPARTMENT[441](cont'd)

99.115(2) The unit shall seek to have the previously suspended support for a child reinstated under this part when the conditions in paragraph “a” or “b” of this subrule are met. This provision shall not prohibit any party, including the child support recovery unit, from taking other action to establish support as provided for by law.

a. The basis for suspension no longer applies to any of the children for whom support was suspended; or

b. The basis for suspension continues to apply to some but not all of the children for whom support was suspended, and there is a step change in the order.

ITEM 22. Adopt the following new rule 441—99.116(252B):

441—99.116(252B) Reinstatement of enforcement of support. If a suspended support obligation is reinstated, the unit shall also reinstate all appropriate enforcement measures to enforce all reinstated ongoing support provisions of the support order.

ITEM 23. Adopt the following new rule 441—99.117(252B):

441—99.117(252B) Temporary suspension becomes final. The temporary suspension of a support order under this division shall become final if not reinstated in accordance with Iowa Code sections 252B.20 and 252B.20A.

ITEM 24. Amend **441—Chapter 99, Division VI**, implementation sentence, as follows:

These The rules in this division are intended to implement Iowa Code ~~section~~ sections 252B.20 and 252B.20A.

ARC 2686C**RACING AND GAMING COMMISSION[491]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Iowa Administrative Code.

This amendment proposes a change to subrule 5.4(10) to implement 2016 Iowa Acts, House File 2445, [Iowa Code section 99F.1(1)] with regard to the calculation of adjusted gross receipts.

Any person may make written suggestions or comments on the proposed amendment on or before September 20, 2016. Written material should be directed to the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on September 20, 2016, at 9 a.m. in the office of the Racing and Gaming Commission, 1300 Des Moines Street, Suite 100, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

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

This amendment is intended to implement Iowa Code chapters 99D and 99F and 2016 Iowa Acts, House File 2445.

The following amendment is proposed.

Amend subrule 5.4(10) as follows:

5.4(10) Taxes and fees.

RACING AND GAMING COMMISSION[491](cont'd)

a. Annual taxes and fees. All taxes and fees, whose collection by the state is authorized under Iowa Code chapters 99D and 99F, shall be accounted for on a fiscal-year basis, each fiscal year beginning on July 1 and ending on June 30.

b. Submission of taxes and fees.

(1) All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission. Each day on the report shall be an accurate representation of the gaming activities. A week shall begin on Monday and end on Sunday.

(2) The reporting form must be received in the Commission office by noon on Wednesday following the week's end. The moneys owed, according to the reporting form, must be received in the treasurer's office by 11 a.m. on the Thursday following the week's end.

(3) Pursuant to Iowa Code section 99F.1(1), taxes from promotional play receipts that are received within the same gaming week but after the date when the limit set forth in the definition of "adjusted gross receipts" is exceeded, as determined by the administrator, will be credited to each facility in the next available gaming week within the same fiscal year.

c. Calculation of promotional play receipts. For the purpose of calculating the amount of taxes received from promotional play receipts during a fiscal year, the commission will consider promotional play receipts as taxed in proportion to total adjusted gross receipts for each gaming day.

ARC 2703C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1) "b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 427.1(40), the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 80, "Property Tax Credits and Exemptions," Iowa Administrative Code.

The proposed amendments update the Department's rule on the property tax exemption for broadband infrastructure to address issues raised by the rules proposed by the Office of the Chief Information Officer addressing the same subject matter (see **ARC 2699C** herein). First, the Department determined that the definition of "date of completion" originally adopted by the Department is too narrow. The amended definition will better reflect the letter of the law, which requires only that broadband infrastructure offer or facilitate broadband service at the requisite speeds in a targeted service area, rather than that the entire area receive the broadband service in order for a certified project to be complete. Additionally, upon review with the Iowa Code Editor, the Department determined that the effective date of the law was actually July 1, 2015, rather than June 22, 2015, the date on which the Governor signed the bill. Consequently, the definition of "targeted service area" is amended to reflect the correct effective date. Finally, the amendments to subrule 80.31(5) accommodate applications that involve targeted service areas that are under appeal pursuant to the rules promulgated by the Office of the Chief Information Officer, including making the approval of those applications contingent on the outcome of the appeal.

Any interested person may make written suggestions or comments on these proposed amendments on or before September 20, 2016. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by September 20, 2016.

REVENUE DEPARTMENT[701](cont'd)

After analysis and review of this rule making, the Department finds that these amendments will have no fiscal impact on local property tax revenues, as these amendments affect an exemption that only pertains to the value added by new infrastructure.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

After analysis and review of this rule making, the Department finds that no negative impact on jobs exists.

These amendments are intended to implement Iowa Code section 427.1.

The following amendments are proposed.

ITEM 1. Amend subrule 80.31(1) as follows:

80.31(1) Definitions. For purposes of this rule, the following definitions shall govern.

“Broadband” means a high-speed, high-capacity electronic transmission medium, including fixed wireless and mobile wireless mediums, that can carry data signals from independent network sources by establishing different bandwidth channels and that is commonly used to deliver Internet services to the public.

“Broadband infrastructure” means the physical infrastructure used for the transmission of data that provides broadband services. “Broadband infrastructure” does not include land, buildings, structures, improvements, or equipment not directly used in the transmission of data via broadband.

“Certified project” means the installation of broadband infrastructure certified by the office of the chief information officer to serve a targeted service area.

“Communications service provider” means a service provider that provides broadband service.

“Date of commencement” means the date first occurring after July 1, 2015, and before July 1, 2020, in which broadband infrastructure used in a certified project becomes property taxed as real property as determined by Iowa Code section 427A.1.

“Date of completion” or *“completed”* means the date that ~~the entire targeted service area receives~~ a communications service provider offers or facilitates broadband service delivered at or above 25 megabits per second of download speed and 3 megabits per second of upload speed in a targeted service area.

“Installation of the broadband infrastructure” means the labor, construction, building, and furnishing of new physical infrastructure used for the transmission of data that provides broadband services. “Installation of the broadband infrastructure” does not include the process of removing existing infrastructure, fixtures, or other real property in preparation of installation of the broadband infrastructure.

“Targeted service area” means a U.S. Census Bureau census block located in this state, including any crop operation located within the census block, within which no communications service provider offers or facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed as of ~~June 22, 2015~~ July 1, 2015.

ITEM 2. Amend subparagraph **80.31(5)“b”(4)** as follows:

(4) Certification from the office of the chief information officer pursuant to Iowa Code section 8B.10 that the installation is being performed or was completed in a targeted service area, including whether or not the targeted service area designation is under appeal pursuant to rule 129—21.7(8B,427), and that it facilitates broadband service at or above 25 megabits per second of download speed and 3 megabits per second of upload speed.

ITEM 3. Amend paragraph **80.31(5)“d”** as follows:

d. *Approval or denial of application.* All applications shall be submitted to the department of revenue. The department shall forward applications for property subject to local assessment to the board of supervisors of the county in which the exempt property is located. The department shall retain the applications for centrally assessed property. The department and the board of supervisors, as applicable, shall notify an applicant of approval or denial of an application for exemption by March 1 of the assessment year in which the application was submitted. The notification shall include a notification

REVENUE DEPARTMENT[701](cont'd)

of the applicant's right to appeal. The board of supervisors shall forward all approved applications and any necessary information regarding the applications to the appropriate local assessor by March 1 of the assessment year in which the application was submitted.

Approval of an application involving a targeted service area that is under appeal pursuant to rule 129—21.7(8B,427) shall be contingent on the outcome of the appeal. In the event that an application is approved and the targeted service area designation subsequently is revoked upon appeal, the approved exemption shall also be revoked at that time.

ARC 2685C

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender hereby gives Notice of Intended Action to amend Chapter 12, “Claims for Indigent Defense Services,” Iowa Administrative Code.

The proposed amendments will require court-appointed attorneys to submit attorney fee claims for payment to the State Public Defender's Office using an online system. The amendments are intended to allow the State Public Defender to achieve greater efficiencies and overall improvements in the processing, review and payment of attorney fee claims. The amendments also specify the manner in which the online claims must be submitted.

Any interested person may make written suggestions or comments on the proposed amendments on or before September 22, 2016. Such written suggestions or comments should be sent to the State Public Defender, Fourth Floor, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; by fax to (515)281-7289; or by e-mail to kswaim@spd.state.ia.us.

A public hearing will be held on September 22, 2016, at 2:30 p.m. in Conference Room 424, Fourth Floor, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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

The State Public Defender does not believe that the proposed amendments pose any financial hardship on any regulated entity or individual.

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

These amendments are intended to implement Iowa Code chapters 13B and 815.

The following amendments are proposed.

ITEM 1. Amend paragraph **12.2(1)“a”** as follows:

a. A completed fee claim on a form promulgated by the state public defender.

(1) Adult fee claims, including all trial-level criminal and postconviction relief proceedings, misdemeanor appeals to district court, and applications for discretionary review or applications for interlocutory appeals to the Iowa supreme court, must be submitted on an Adult form. Juvenile fee claims, including petitions on appeal and applications for interlocutory appeals, must be submitted on a Juvenile form. Appellate fee claims, including claims for all criminal and postconviction relief appeals, work performed after the granting of an application for discretionary review or for interlocutory appeal, and work performed after full briefing is ordered following a juvenile petition on appeal, must be

STATE PUBLIC DEFENDER[493](cont'd)

submitted on an Appellate form. ~~The~~ For paper claims submitted on or before December 31, 2016, the claim forms may be downloaded from the state public defender Web site: <http://spd.iowa.gov>.

(2) Claims submitted on or after January 1, 2017, shall be submitted electronically via the online claims Web site: <https://spdclaims.iowa.gov>. Effective January 1, 2017, any reference in these rules to forms for Adult, Juvenile, or Appellate claims means the respective electronic claims submission page on the online claims Web site. The state public defender, at the state public defender's sole discretion, may grant limited exceptions to the requirement that claims be submitted electronically via the online claims Web site.

ITEM 2. Amend subparagraph **12.2(1)"f"(6)** as follows:

(6) The For paper claims submitted on or before December 31, 2016, the itemization must be typed in at least 10-point type on 8½" × 11" paper. For claims submitted on or after January 1, 2017, the itemization shall be submitted electronically via the Attorney Hours grid on the appropriate claims submission page on the online claims Web site. Separate electronic attachments of itemizations will not be accepted.

ARC 2695C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission (Commission) hereby amends Chapter 61, “Water Quality Standards,” and Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The primary purpose of these amendments is to update the Iowa Antidegradation Implementation Procedure, which is incorporated by reference. The Commission and the Department of Natural Resources (Department) received a Petition for Rule Making from the Iowa Association of Municipal Utilities, the Iowa League of Cities, and the Iowa Association of Business and Industry on April 25, 2016. In response to the petition, the Commission has established a bright-line standard for evaluating the economic efficiency of an alternative wastewater project analyzed pursuant to the Antidegradation Implementation Procedure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2016, as **ARC 2579C**. A public hearing was held on June 29, 2016. Public comments were received and considered. A responsiveness summary has been prepared and is available at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards/Antidegradation>.

In response to public comments, clarifying revisions were made at pages 13, 15, and 16 of the Iowa Antidegradation Implementation Procedure. Those clarifications do not alter the substantive impact of these amendments. The revised Iowa Antidegradation Implementation Procedure can be viewed at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards/Antidegradation>.

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Commission finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective August 12, 2016. These amendments confer a benefit to or remove a restriction on the regulated public in that they provide a clarification to the requirements of the Iowa Antidegradation Implementation Procedure and will allow the continued review and permitting of wastewater construction projects in Iowa.

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

These amendments are intended to implement Iowa Code sections 455B.172, 455B.173, 455B.174, 455B.183, and 455B.197.

These amendments became effective on August 12, 2016.

The following amendments are adopted.

ITEM 1. Rescind and reserve paragraph **61.2(2)“e.”**

ITEM 2. Amend paragraph **64.2(9)“a”** as follows:

a. Review of applications for construction permits shall be based on the criteria contained in the “Iowa Wastewater Facilities Design Standards,” the Ten States Standards, the “Iowa Antidegradation Implementation Procedure” effective August 12, 2016, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. To the extent of any conflict between the above criteria, the “Iowa Wastewater Facilities Design Standards” standards shall prevail.

ITEM 3. Adopt the following new subparagraph **64.7(2)“f”(5)**:

(5) Any limitation necessary to comply with the antidegradation policy requirements of 567—subrule 61.2(2) implemented according to procedures hereby incorporated by reference and known as the “Iowa Antidegradation Implementation Procedure,” effective

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

August 12, 2016. This document may be obtained on the department's Web site at: <http://www.iowadnr.gov/Environmental-Protection/Water-Quality/Water-Quality-Standards>.

[Filed Emergency After Notice 8/12/16, effective 8/12/16]

[Published 8/31/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.

ARC 2697C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 455A.5(6), 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24, and 483A.24B, the Natural Resource Commission (Commission) hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

Chapter 106 sets regulations for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements. This adopted amendment keeps the antlerless-deer-only license quotas the same for 2016 as they were for the last two years. The regulation changes enacted for the 2014 season, which were maintained in the 2015 season, appear to have stabilized deer numbers at the levels agreed to in 2009 by the Deer Study Advisory Group (DSAG). The DSAG was created to review, analyze, and make recommendations on issues relating to the state's deer population.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 11, 2016, as **ARC 2533C**. Public comment was accepted through June 1, 2016. A public hearing was also held on that date. One person attended the hearing. Only two comments were received, but neither was germane to the substance of this rule making. One commenter asked for the high-powered rifle season to be reinstated in southern Iowa and for an investigation to be conducted to quantify economic impacts of Iowa's deer herd on cattle farmers. The second commenter requested the state's deer depredation program be amended to include cattle producers.

This amendment is identical to that published under Notice.

Pursuant to Iowa Code section 17A.5(2)"b"(1)(b), the Commission finds that the normal effective date of this amendment, 35 days after publication, should be waived and that this amendment should be made effective upon filing because this rule confers a benefit on the public by establishing a state deer season that opens September 17, 2016. A normal 35-day effective date would put this rule into effect almost three weeks too late.

This amendment does not provide for a waiver because any such request may be submitted under the Commission's general rule on waivers and variances at 571—Chapter 11.

This amendment will have a neutral impact on jobs in the state. The following types of jobs are positively impacted by deer hunting generally and should see no noticeable change due to this rule making: hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48, 483A.8, 483A.8B, 483A.8C, 483A.24, and 483A.24B.

This amendment became effective on August 12, 2016.

The following amendment is adopted.

Amend subrule 106.6(6) as follows:

106.6(6) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses will be available by county for the ~~2015~~ 2016 deer season as follows:

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County	Quota	County	Quota	County	Quota
Adair	1025	Floyd	0	Monona	850
Adams	1450	Franklin	0	Monroe	1950
Allamakee	2975	Fremont	525	Montgomery	750
Appanoose	2200	Greene	0	Muscatine	775
Audubon	0	Grundy	0	O'Brien	0
Benton	325	Guthrie	1950	Osceola	0
Black Hawk	0	Hamilton	0	Page	750
Boone	450	Hancock	0	Palo Alto	0
Bremer	650	Hardin	0	Plymouth	0
Buchanan	200	Harrison	850	Pocahontas	0
Buena Vista	0	Henry	925	Polk	1350
Butler	0	Howard	200	Pottawattamie	850
Calhoun	0	Humboldt	0	Poweshiek	300
Carroll	0	Ida	0	Ringgold	2200
Cass	400	Iowa	450	Sac	0
Cedar	775	Jackson	675	Scott	200
Cerro Gordo	0	Jasper	775	Shelby	225
Cherokee	0	Jefferson	1650	Sioux	0
Chickasaw	375	Johnson	850	Story	150
Clarke	2100	Jones	525	Tama	200
Clay	0	Keokuk	450	Taylor	2200
Clayton	2775	Kossuth	0	Union	1500
Clinton	400	Lee	1275	Van Buren	3800
Crawford	150	Linn	850	Wapello	1825
Dallas	1875	Louisa	775	Warren	2200
Davis	2800	Lucas	2200	Washington	750
Decatur	2200	Lyon	0	Wayne	2200
Delaware	525	Madison	2100	Webster	0
Des Moines	800	Mahaska	475	Winnebago	0
Dickinson	0	Marion	1650	Winneshiek	1975
Dubuque	725	Marshall	150	Woodbury	850
Emmet	0	Mills	750	Worth	0
Fayette	1500	Mitchell	0	Wright	0

[Filed Emergency After Notice 8/12/16, effective 8/12/16]

[Published 8/31/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.

ARC 2692C**ENVIRONMENTAL PROTECTION COMMISSION[567]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 455D.7, the Environmental Protection Commission hereby amends Chapter 105, “Organic Materials Composting Facilities,” and Chapter 113, “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Nonhazardous Wastes,” Iowa Administrative Code.

“Yard waste” is defined in subrule 105.1(1) as “vegetative matter such as grass clippings, leaves, garden waste, brush and trees, and any clean wood waste which is necessary as bulking agent and which is free of coatings and preservatives.” These amendments allow yard waste to be disposed of in a sanitary landfill when the following circumstances occur:

- When yard waste is collected for disposal as a result of a severe storm and the yard waste originates in an area declared to be a disaster area.
- When yard waste is collected for disposal to control, eradicate, or prevent the spread of insect pests, tree and plant diseases, or invasive plant species.
- When yard waste is disposed of in a sanitary landfill that operates a methane collection system that produces energy.

In addition, these amendments remove the requirement for municipalities that provide for the collection of solid waste to also provide for the separate collection of yard waste.

The exemptions to the prohibition of yard waste disposal were added to Iowa Code section 455D.9(1) in 2014 Iowa Acts, Senate File 2212, signed by Governor Branstad on April 3, 2014, and 2015 Iowa Acts, House File 266, signed by Governor Branstad on March 31, 2015. The requirement for municipalities to provide for the separate collection of yard waste was removed from Iowa Code section 455D.9(2) in 2013 Iowa Acts, House File 225, signed by Governor Branstad on March 28, 2013. These amendments are needed to make changes to existing administrative rules so that they are consistent with the above legislation and the Iowa Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2539C** on May 25, 2016. A public hearing was held on June 14, 2016, in the Wallace State Office Building. The Department of Natural Resources also accepted written comments through June 14, 2016.

The Department received one written comment from Cindy Turkle of Turkle-Clark Environmental Consulting. Ms. Turkle expressed concern that allowing landfills that operate a methane recovery system that produces energy to accept yard waste for disposal will make it difficult for residents to understand why some communities are allowed to include yard waste with trash while others are not. She also expressed concern that sanitary landfills that are not allowed to accept yard waste will have difficulty keeping yard waste out of the landfills. Ms. Turkle suggested expanding the exemption to all sanitary landfills.

Iowa Code section 455D.9(1) prohibits the disposal of yard waste in a landfill except under certain circumstances. In 2015, the Iowa Legislature passed 2015 Iowa Acts, House File 266, which added an exemption to the yard waste disposal prohibition for landfills that operate a methane recovery system that produces energy. Because the law specifies that yard waste is prohibited from landfill disposal other than in the specific circumstances listed, the Department does not have the authority to allow yard waste disposal at landfills that do not have a methane recovery system that produces energy; nor can the Department prohibit yard waste disposal in landfills that operate a methane recovery system that produces energy. Therefore, no change to these amendments has been made in response to public comment. The only change to the amendments from those published under Notice is a grammatical correction in Item 4 to change the plural word “purposes” to “purpose.”

The Environmental Protection Commission adopted these amendments on August 10, 2016.

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

These amendments are intended to implement Iowa Code section 455D.9.

These amendments will become effective on October 5, 2016.

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The following amendments are adopted.

ITEM 1. Amend subrule 105.1(3) as follows:

105.1(3) Burial of yard waste at a sanitary landfill is prohibited. ~~Acceptance of yard waste by a hauling firm or at a transfer station for burial at a sanitary landfill is also prohibited. However, yard waste that has been separated at its source from other solid waste may be accepted by a sanitary landfill for the purposes of soil conditioning or composting. Yard waste accepted by a sanitary landfill for the purposes of soil conditioning shall be used only on finished areas of the landfill that have received the final earthen cover, developed areas with intermediate cover, and restoration of soil borrow areas. Burning of yard waste at a sanitary disposal project is prohibited., except in the following circumstances:~~

a. When the yard waste is collected for disposal as a result of a severe storm and the yard waste originates in an area declared to be a disaster area in a declaration issued by the President of the United States or the governor.

b. When the yard waste is collected for disposal to control, eradicate, or prevent the spread of insect pests, tree and plant diseases, or invasive plant species.

c. When the yard waste is disposed of in a sanitary landfill that operates a methane collection system that produces energy. A methane collection system that burns landfill gas without using the energy for a purpose other than reducing the amount of methane released is not considered to be a system that produces energy.

ITEM 2. Amend subrule 105.1(4) as follows:

105.1(4) Each city and county shall, by ordinance, require persons within the city or county to separate yard waste from other solid waste generated. ~~Municipalities which provide for collection of solid waste shall also provide for separate collection of yard waste.~~

ITEM 3. Renumber subrule **105.1(5)** as **105.1(6)**.

ITEM 4. Adopt the following new subrule 105.1(5):

105.1(5) Yard waste that has been separated at its source from other solid waste may be accepted by a sanitary landfill for the purposes of soil conditioning or composting. Yard waste accepted by a sanitary landfill for the purpose of soil conditioning shall be used only on finished areas of the landfill that have received the final earthen cover, developed areas with intermediate cover, and restoration of soil borrow areas. Burning of yard waste at a sanitary disposal project is prohibited.

ITEM 5. Amend subparagraph **113.8(1)“b”(13)** as follows:

(13) Yard waste, ~~except in the following circumstances:~~

1. When the yard waste is collected for disposal as a result of a severe storm and the yard waste originates in an area declared to be a disaster area in a declaration issued by the President of the United States or the governor.

2. When the yard waste is collected for disposal to control, eradicate, or prevent the spread of insect pests, tree and plant diseases, or invasive plant species.

3. When the yard waste is disposed of in a sanitary landfill that operates a methane collection system that produces energy. A methane collection system that burns landfill gas without using the energy for a purpose other than reducing the amount of methane released is not considered to be a system that produces energy.

[Filed 8/12/16, effective 10/5/16]

[Published 8/31/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.

ARC 2688C**LABOR SERVICES DIVISION[875]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 4, "Recording and Reporting Occupational Injuries and Illnesses," Iowa Administrative Code.

This amendment adopts by reference changes to federal occupational safety and health regulations governing record keeping and reporting. The changes become effective over a two-year period. Employers are already required to keep data about workplace illnesses and injuries, and the federal changes require that some employers annually submit that same data electronically. The federal changes also amend two existing regulations in order to encourage more employees to report illnesses and injuries to employers.

The principal reasons for adoption of this amendment are to implement legislative intent, protect the safety and health of Iowa workers, make data about workplace illnesses and injuries more available, and make Iowa's regulations consistent with federal regulations. Pursuant to 29 CFR 1902.7 and 1904.37, Iowa must adopt changes to the federal occupational safety and health record-keeping and reporting regulations.

Notice of Intended Action was published in the July 6, 2016, Iowa Administrative Bulletin as **ARC 2615C**. No comments were received. This amendment is identical to the amendment published under Notice of Intended Action.

No variance procedures are included in this rule. Variance procedures are set forth in 875—Chapter 5.

After analysis and review of this rule making, it has been determined that jobs could be impacted. However, this amendment is implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

This amendment is intended to implement Iowa Code chapter 88 and 29 CFR 1904.37 and 1902.7.

This amendment shall become effective on November 1, 2016.

The following amendment is adopted.

Amend rule 875—4.3(88) as follows:

875—4.3(88) Recording and reporting regulations. Except as noted in this rule, the Federal Occupational Safety and Health Administration regulations at 29 CFR 1904.0 through 1904.46 as published at 66 Fed. Reg. 6122 to 6135 (January 19, 2001) are adopted.

4.3(1) The following amendments to 29 CFR 1904.0 through 1904.46 are adopted:

- a. 66 Fed. Reg. 52031-52034 (October 12, 2001)
- b. 67 Fed. Reg. 44047 (July 1, 2002)
- c. 67 Fed. Reg. 77170 (December 17, 2002)
- d. 68 Fed. Reg. 38606 (June 30, 2003)
- e. 79 Fed. Reg. 56186 (September 18, 2014)
- f. 81 Fed. Reg. 29691 (May 12, 2016)
- g. 81 Fed. Reg. 31854 (May 20, 2016)

4.3(2) In addition to the reporting methods set forth in 29 CFR 1904.39(a), employers may make reports required by 29 CFR 1904.39 using at least one of the following methods:

- a. Completing the incident report form available at www.iowaosha.gov and faxing the completed form to (515)242-5076 or sending the completed form to osha@iwd.iowa.gov;
- b. Calling (877)242-6742; or

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c. Visiting 1000 E. Grand Avenue, Des Moines, Iowa.

[Filed 8/11/16, effective 11/1/16]

[Published 8/31/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.

ARC 2694C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6) and 461A.3, the Natural Resource Commission (Commission) hereby amends Chapter 61, "State Parks, Recreation Areas, and State Forest Camping," Iowa Administrative Code.

This amendment bans alcoholic liquor, beer, and wine at the beaches located in Lake Macbride State Park and Pleasant Creek State Recreation Area. The definition of "beach" means the "portion of state parks or recreation areas designated for swimming activity including the sand, a 200-foot buffer of land surrounding the sand or a designated area which is fenced in, and the water area contiguous to the beach as marked by swim buoys or swim lines" and applies to paragraph 61.7(2)"e." However, the alcohol ban does not apply to any rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the Department of Natural Resources (Department). Thus, for example, the amendment does not prevent an individual from reserving a beach-bordering shelter for a large party, such as a reunion or a wedding, and providing alcohol to guests.

Department citation records and incident reports indicate alcohol consumption at these particular beaches presents legitimate safety risks to the public and Department personnel. During the high summer season, the ratio of park users to park personnel on these beaches has, at times, based on visual observations and vehicle counts, been estimated at over 500:1. Documented citations and incidents at these beaches that are attributed to alcohol include assault, public intoxication (to the point of near unconsciousness), littering, interference with official acts, disorderly conduct, and minors in possession. For instance, Lake Macbride State Park spans 2,180 acres bordering an 812-acre lake and contains 102 campsites and a 2-acre beach. In the last five years, of 371 total arrests made and citations issued at Lake Macbride State Park, 222 occurred at the beach and involved alcohol. In other words, an area that encompasses less than a quarter of 1 percent of the park's total size resulted in almost 60 percent of all park enforcement activity. Thus, the beach area requires an inordinate amount of staff time, resources, and attention, much of which can be attributed to alcohol use. Pleasant Creek State Recreation Area has similar statistics.

As an interim measure, in mid-July 2015, pursuant to the authority of Iowa Code section 461A.46, the Department's Director imposed an early closing time of 6 p.m. on both parks' beaches due to the particular challenges posed by large evening crowds. The Department's State Parks Bureau also entered into cooperative agreements with local law enforcement agencies to provide for scheduled backup assistance from nearby city police departments, respective county sheriff's offices, and state troopers, a necessity as indicated by the 269 calls for backup made from Lake Macbride State Park between 2010 and 2015. Combined, the early closing time and cooperative agreements have had a positive impact on the number of arrests made, citations issued, and verbal warnings issued at these beaches. However, the early closing time has been very unpopular with park users, especially with those who would like to visit these beaches after work and with those who are overnight campers. In addition, relying on law enforcement from other public agencies is not a sustainable practice.

Thus, the Commission is banning alcohol in lieu of the early closing time at Lake Macbride State Park and Pleasant Creek State Recreation Area beaches. The Commission believes that banning alcohol from these beaches will considerably reduce the number of arrests made and citations issued at these locations. More importantly, banning alcohol at these beaches will increase the safety and enjoyment of other park users in these areas. This change will enable Department staff at Lake Macbride State Park

NATURAL RESOURCE COMMISSION[571](cont'd)

and Pleasant Creek State Recreation Area to focus less on the beach and more on the park as a whole, permitting the State Parks Bureau's resources to be applied to a greater variety of issues, areas, and user and resource needs (such as the large campgrounds).

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2612C** on July 6, 2016. Comments were accepted through July 26, 2016, the date on which two public hearings were held. A total of 23 comments were received; 17 were in support of the rule, 4 were against, and 2 were neutral. Reasons for support of the alcohol ban included concerns over public safety, a desire for these beaches to be more elderly- and family-friendly, a desire for the Director to rescind the early closing time implemented at the beaches last summer, and a desire for law enforcement officers and park staff to focus their time and efforts elsewhere. Reasons for opposition to the alcohol ban included concerns that the ban unfairly punishes people who abide by the law and drink alcohol responsibly, that the Commission and the Department need to enforce existing public intoxication laws rather than create new ones, and that the ban is arbitrarily limited to the beach.

This amendment is identical to that published under Notice.

This amendment does not provide for a waiver because any such request may be submitted under the Commission's general rule on waivers and variances in 571—11(17A).

This amendment was adopted by the Commission on August 11, 2016.

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

This amendment is intended to implement Iowa Code section 461A.3.

This amendment will become effective October 5, 2016.

The following amendment is adopted.

Amend subrule 61.7(2) as follows:

61.7(2) Beach use/swimming.

a. to d. No change.

e. Alcoholic liquor, beer, and wine, as each is defined in Iowa Code section 123.3, are prohibited on the beaches located within Lake Macbride State Park and Pleasant Creek State Recreation Area. This ban does not apply to rental facilities located within the 200-foot buffer of land surrounding the sand or fenced-in area that have been officially reserved through the department.

[Filed 8/12/16, effective 10/5/16]

[Published 8/31/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.

ARC 2693C

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6) and 455A.13, the Natural Resource Commission (Commission) hereby amends Chapter 71, "Nursery Stock Sale to the Public," Iowa Administrative Code.

Chapter 71 regulates the sale of tree and shrub seedlings from the Iowa Department of Natural Resources (Department) State Forest Nursery pursuant to the authority of Iowa Code sections 455A.5(6) and 455A.13 by setting prices for seedlings and specialty packets. Chapter 71 also describes stock to be sold, sets order limitations, and describes customer obligations. This amendment affects the price of seedlings and specialty packets. This amendment also removes the price for black walnut seed because it is no longer sold from the Nursery. All rule changes were vetted with stakeholders in the rules preclearance process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2016, as **ARC 2558C**. Public hearings were held on June 28, 2016, June 29, 2016, and June 30, 2016. The Department also accepted written comments through June 30, 2016. Eight comments were received during these hearings, in addition to 50 comments received via e-mail. Of the comments germane to the rule, 80

NATURAL RESOURCE COMMISSION[571](cont'd)

percent were favorable and 20 percent were unfavorable. Common themes of the favorable comments included support of the price increases, strong support for keeping the State Forest Nursery operational, and suggestions to make trees and shrubs available in smaller quantities. Commenters opposed felt that the prices should be lower or remain the same.

This amendment is identical to that published under Notice of Intended Action.

The Commission adopted this amendment on August 11, 2016.

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

This amendment is intended to implement Iowa Code sections 455A.13, 456A.17, 456A.20 and 456A.21.

This amendment shall become effective October 5, 2016.

The following amendment is adopted.

Amend rule 571—71.3(456A,461A) as follows:

571—71.3(456A,461A) Nursery stock prices.

71.3(1) Prices for hardwoods shall be as follows:

- a. Aspen, oak, hickory, walnut, pecan and basswood, 6" to 16"—~~\$40~~ \$65 per hundred plants.
- b. Aspen, oak, hickory, walnut, pecan and basswood, 17" and larger—~~\$55~~ \$90 per hundred plants.
- c. Other hardwood tree species, 6" to 16"—~~\$37~~ \$65 per hundred plants.
- d. Other hardwood tree species, 17" and larger—~~\$52~~ \$90 per hundred plants.

71.3(2) Prices for shrubs shall be as follows:

- a. Elderberry, buttonbush, dogwood, and Nanking cherry, 6" to 16"—~~\$37~~ \$65 per hundred plants.
- b. Elderberry, buttonbush, dogwood, and Nanking cherry, 17" and larger—~~\$52~~ \$90 per hundred plants.
- c. Other shrub species, 6" to 16"—~~\$40~~ \$70 per hundred plants.
- d. Other shrub species, 17" and larger—~~\$55~~ \$90 per hundred plants.

71.3(3) Prices for conifers shall be as follows:

- a. Conifers, 6" to 16"—~~\$25~~ \$50 per hundred plants.
- b. Conifers, 17" and larger—~~\$40~~ \$80 per hundred plants.

71.3(4) Prices for wildlife packets shall be ~~\$110~~ \$190 each.

71.3(5) Prices for songbird packets shall be ~~\$25~~ \$45 each.

~~**71.3(6)** Prices for walnut seed shall be \$3 per pound.~~

~~**71.3(7)**~~ **71.3(6)** For promotion of conservation plantings, nursery stock may be provided to schools and conservation and education groups to use for Arbor Day and other special events.

[Filed 8/12/16, effective 10/5/16]

[Published 8/31/16]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/31/16.

ARC 2696C

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 27, "Automobile Rental Excise Tax," and Chapter 78, "Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities," Iowa Administrative Code.

This rule making is part of the Department's review of rules that takes place every five years. These amendments make nonsubstantive changes and update Iowa Code references.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2574C** on June 8, 2016. No public comments were received. These amendments are identical to those published under Notice of Intended Action.

REVENUE DEPARTMENT[701](cont'd)

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department of Revenue adopted these amendments on August 10, 2016.

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

These amendments are intended to implement Iowa Code sections 423C.1 to 423C.5 and 437B.1 to 437B.21.

These amendments will become effective October 5, 2016.

The following amendments are adopted.

ITEM 1. Amend **701—Chapter 27** as follows:

CHAPTER 27
AUTOMOBILE RENTAL EXCISE TAX

701—27.1(422,422C,423 423C) Definitions and characterizations. For the purposes of this chapter, the following definitions and characterizations of words apply.

“*Automobile*” means a motor vehicle subject to registration in any state and designed primarily for carrying nine or fewer passengers. Excluded from the meaning of the term “automobile” are delivery trucks designed primarily to carry cargo rather than passengers and motorcycles and motorized bicycles.

“*Lessor*” is a person engaged in the business of renting automobiles to users. Included within the meaning of the term “lessor” are motor vehicle dealers licensed under Iowa Code chapter 322 to sell new and used automobiles who also rent automobiles to users. A person need not be engaged in a profit-making enterprise to be in the business of renting automobiles.

“*Rental*” is a transfer of possession or right of possession to an automobile to a user for a valuable consideration for a period of 60 days or less.

“*Rental price*” means the total amount of consideration valued in money for renting an automobile.

“*User*” is any person to whom possession or right of possession of an automobile is transferred for a valuable consideration for a period of 60 ~~or fewer~~ days or less.

701—27.2(422,422C,423 423C) Tax imposed upon rental of automobiles. ~~On and after July 1, 1992,~~ a A tax at the rate of 5 percent is imposed on the rental price of any automobile if the rental transaction is taxed under Iowa sales or Iowa use tax law. The tax imposed is in addition to the Iowa state sales or use tax.

See rule 701—26.68(422) for a description of automobile rentals which are subject to Iowa sales tax and rule 701—33.8(423) for a description of automobile rentals which are subject to Iowa use tax. These rules should be used with care since they involve vehicles other than an “automobile” as that word is defined for the purpose of this chapter. For instance, rule 701—26.68(422) is concerned with boats and recreational vehicles as well as automobiles and other vehicles subject to registration. Summarizing the essential content of those rules regarding automobiles:

27.2(1) and 27.2(2) No change.

701—27.3(422,422C,423 423C) Lessor’s obligation to collect tax. The lessor shall collect this automobile rental excise tax from the user or from any other person paying the rental price for an automobile. The lessor shall collect the tax by adding the tax to the rental price of the automobile. When collected, the tax shall be stated on any billing or invoice as a distinct item separate and apart from the rental price of the automobile and separate and apart from any state or local option sales or service tax or any state use tax.

701—27.4(422,422C,423 423C) Administration of tax. The excise tax on automobile rental is levied in addition to the state sales and use taxes imposed by Iowa Code ~~chapters 422 and~~ chapter 423. The director of revenue is required to administer this excise tax on motor vehicle rental as nearly as possible in the fashion in which the state sales tax is administered. However, as an exception to this requirement,

REVENUE DEPARTMENT[701](cont'd)

the director is to require only the filing of quarterly reports for motor vehicle excise tax. Quarterly, the correct amount of tax collected and due shall accompany the tax form prescribed by the department. No permit, other than an Iowa sales or use tax permit, will be required to collect the tax imposed under this chapter. However, the director may require all persons responsible for collecting and remitting motor vehicle rental excise tax to register with the department. For other aspects concerning the details of administering the tax imposed under this chapter, see 701—Chapters 10, 11, 12, 13 and 14.

These rules are intended to implement Iowa Code ~~chapters 422C and 423~~ chapter 423C.

ITEM 2. Amend **701—Chapter 78** as follows:

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

701—78.1(85GA, SF451 437B) Who must file return. Beginning with property tax years and replacement tax years beginning on or after January 1, 2013, each taxpayer, as defined in ~~2013 Iowa Acts, Senate File 451, section 11(13)~~ Iowa Code section 437B.2, shall file a true and accurate return with the director. The return shall include all of the information prescribed in ~~2013 Iowa Acts, Senate File 451, section 13(1)“a” and “b,”~~ Iowa Code sections 437B.4(1)“a” and “b” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—78.2(85GA, SF451 437B) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after the due date for filing. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.3(85GA, SF451 437B) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for proper forms to the department in ample time to have the taxpayers' returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer's return so as to fully and clearly set forth the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state “see schedule attached,” “no tax due,” or some other conclusionary statement are not considered to be properly filed returns and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return's being filed after the due date.

REVENUE DEPARTMENT[701](cont'd)

701—78.4(85GA, SF451 437B) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall not be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer's replacement tax obligation.

701—78.5(85GA, SF451 437B) Statute of limitations.

78.5(1) to 78.5(4) No change.

701—78.6(85GA, SF451 437B) Billings.

78.6(1) No change.

78.6(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the taxpayer does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A)₂ or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in ~~2013 Iowa Acts, Senate File 451, section 19(1) "b,"~~ Iowa Code section 437B.10(1) "b" for filing such claims.

78.6(3) No change.

701—78.7(85GA, SF451 437B) Refunds.

78.7(1) No change.

78.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of ~~2013 Iowa Acts, Senate File 451, section 13(5),~~ Iowa Code section 437B.4(5) are applicable.

78.7(3) to 78.7(7) No change.

701—78.8(85GA, SF451 437B) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director's decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

701—78.9(85GA, SF451 437B) Taxpayers required to keep records.

78.9(1) Records required by taxpayers taxed under ~~2013 Iowa Acts, Senate File 451, sections 10 to 30~~ Iowa Code chapter 437B. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the total number of gallons of water carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of water carried through the taxpayer's distribution system is calculated as though ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B was in effect for such calendar year.

b. Records associated with the total amount of nonrevenue water, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(9)~~ Iowa Code section 437B.2(9), carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of nonrevenue water carried through the taxpayer's distribution system is calculated as though ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B was in effect for such calendar year.

c. Records associated with the total taxable gallons of water delivered by the taxpayer to consumers, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(2)~~ Iowa Code section

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437B.2(2), within the service area during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total taxable gallons delivered by the taxpayer to consumers by the water utility is the difference between the gallons of water calculated in paragraphs 78.9(1) "a" and "b."

d. For tax years 2013, 2014, and 2015, records associated with property tax amounts due and payable as the result of assessment years 2010 and 2011.

e. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

f. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the replacement delivery tax rates are subject to recalculation under the provisions of ~~2013 Iowa Acts, Senate File 451, section 13(5)~~ Iowa Code section 437B.4(5).

g. All work papers associated with any of the records described in this subrule.

h. Records pertaining to any additions or deletions of property described as exempt from local property tax in ~~2013 Iowa Acts, Senate File 451, section 21~~ Iowa Code section 437B.12.

i. Records associated with allocation of property described in paragraph 78.9(1) "h" above among local taxing districts.

78.9(2) No change.

701—78.10(~~85GA, SF451~~ 437B) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

701—78.11(~~85GA, SF451~~ 437B) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require, by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—78.12(~~85GA, SF451~~ 437B) Information confidential. ~~2013 Iowa Acts, Senate File 451, sections 19(2) and 19(3), Iowa Code sections 437B.10(2) and 437B.10(3)~~ apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the gallons of water delivered by a taxpayer taxed under ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B in a service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

STATEWIDE PROPERTY TAX

701—78.13(~~85GA, SF451~~ 437B) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in ~~2013 Iowa Acts, Senate File 451, section 26,~~ Iowa Code section 437B.17 and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—78.14(~~85GA, SF451~~ 437B) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant

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an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.15(85GA, SF451 437B) Form for filing. Rule 701—78.3(85GA, SF451 437B) is incorporated herein by reference.

701—78.16(85GA, SF451 437B) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

701—78.17(85GA, SF451 437B) Statute of limitations. Rule 701—78.5(85GA, SF451 437B) is incorporated herein by reference.

701—78.18(85GA, SF451 437B) Billings.

78.18(1) Notice of adjustments. Subrule 78.6(1) is incorporated herein by reference.

78.18(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1)“b,” no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A)₂ or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the director and file a refund claim with the director within the applicable period provided in ~~2013 Iowa Acts, Senate File 451, sections 19 and 27;~~ Iowa Code sections 437B.10 and 437B.18 for filing such claims.

78.18(3) Supplemental assessments. Subrule 78.6(3) is incorporated herein by reference.

701—78.19(85GA, SF451 437B) Refunds. Subrules 78.7(1) to 78.7(3), 78.7(5) and 78.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.

701—78.20(85GA, SF451 437B) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.

701—78.21(85GA, SF451 437B) Taxpayers required to keep records.

78.21(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director’s authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. to d. No change.

e. Records associated with the transfer or disposal of all operating property, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(10)~~ Iowa Code section 437B.2(10), in the preceding calendar year, by local taxing district.

f. to i. No change.

78.21(2) No change.

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701—78.22(85GA,SF451 437B) Credentials. Rule 701—78.10(85GA,SF451 437B) is incorporated herein by reference.

701—78.23(85GA,SF451 437B) Audit of records. Rule 701—78.11(85GA,SF451 437B) is incorporated herein by reference.

These rules are intended to implement 2013 Iowa Acts, Senate File 451 Iowa Code chapter 437B.

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REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby amends Chapter 40, "Determination of Net Income," and Chapter 86, "Inheritance Tax," Iowa Administrative Code.

The Iowa General Assembly recently enacted 2015 Iowa Acts, chapter 137, which, in part, created the Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust allows individuals to contribute funds to qualified ABLE accounts on behalf of eligible individuals with disabilities. Funds in the account earn interest, and the beneficiaries of the accounts can use the funds to pay for future disability-related expenses. Contributing funds to the account, withdrawing funds from the account, and interest accrued on the account all have possible Iowa income tax consequences for either the person contributing or the designated beneficiary. The Department adopts new rule 701—40.81(422) to administer those income tax consequences.

2015 Iowa Acts, chapter 137, also provides that a decedent's interest in an ABLE account is not subject to Iowa inheritance tax. The Department adopts new subrule 86.5(16), which is added to rule 701—86.5(450) that describes how to calculate the gross estate for Iowa inheritance tax purposes, to specify that the decedent's interest in a qualified ABLE account is not included in the gross estate.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2617C** on July 6, 2016. No public comments were received in relation to this rule making. These amendments are identical to those published under Notice of Intended Action.

Any person who believes that the application of the discretionary provisions of these amendments 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).

The Department of Revenue adopted these amendments on August 10, 2016.

After analysis and review of this rule making, the Department finds that these amendments are not likely to have a significant impact on jobs.

These amendments are intended to implement Iowa Code chapter 12I and sections 422.7(34), 422.7(34A), and 450.4(9) as amended by 2015 Iowa Acts, chapter 137.

These amendments will become effective October 5, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following **new** rule 701—40.81:

701—40.81(422) Iowa ABLE savings plan trust. The Iowa ABLE savings plan trust was created so that individuals can contribute funds on behalf of designated beneficiaries into accounts administered by the treasurer of state. The funds contributed to the trust may be used to cover future disability-related expenses of the designated beneficiary. The funds contributed to the trust are intended to supplement, but not supplant, other benefits provided to the designated beneficiary by various federal, state, and private sources. The Iowa ABLE savings plan program is administered by the treasurer of state under the terms

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of Iowa Code chapter 12I. The following subrules provide details about how an individual's net income is affected by contributions to a beneficiary's account, by interest and any other earnings on a beneficiary's account, and by distributions of contributions which were previously deducted.

40.81(1) Definitions.

"Account owner" means an individual who enters into a participation agreement under Iowa Code chapter 12I for the payment of qualified disability expenses on behalf of a designated beneficiary.

"Designated beneficiary" means an individual who is a resident of this state or a resident of a contracting state and who meets the definition of "eligible individual" found in Section 529A of the Internal Revenue Code.

"Iowa ABLÉ savings plan trust" means a qualified ABLÉ program administered by the Iowa treasurer of state under the terms of Iowa Code chapter 12I.

"Other qualified ABLÉ program" refers to any qualified ABLÉ program administered by another state with which the Iowa treasurer of state has entered into an agreement under the terms of Iowa Code section 12I.10 (see subrule 40.81(2) below).

"Qualified ABLÉ program" means the same as defined in Section 529A of the Internal Revenue Code.

"Qualified disability expenses" means the same as defined in Section 529A of the Internal Revenue Code.

40.81(2) Contracting with other states. Iowa Code section 12I.10 allows the treasurer of state to choose to defer implementation of Iowa's own qualified ABLÉ program and instead enter into an agreement with another state that already has a qualified ABLÉ program, to provide Iowa residents access to that state's qualified ABLÉ program, provided that the other state's program meets the qualifications set out in Iowa Code section 12I.10(1).

40.81(3) Subtraction from net income for contributions made to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program. For tax years beginning on or after January 1, 2016, individuals can subtract from their Iowa net income the amount contributed to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program on behalf of a designated beneficiary during the tax year, subject to the maximum contribution level for that year.

40.81(4) Exclusion of interest and earnings on beneficiary accounts in the Iowa ABLÉ savings plan trust or other qualified ABLÉ program. For tax years beginning on or after January 1, 2016, to the extent that interest or other earnings accrue on an account in the Iowa ABLÉ savings plan trust or other qualified ABLÉ program (if the account owner is an Iowa resident), the interest or other earnings are excluded for purposes of computing net income on the designated beneficiary's Iowa individual income tax return.

40.81(5) Addition to net income of amounts distributed to the participant from the Iowa ABLÉ savings plan trust or other qualified ABLÉ program that had previously been deducted.

a. For tax years beginning on or after January 1, 2016, if a taxpayer, as an account owner, cancels the account owner's account in the Iowa ABLÉ savings plan trust or other qualified ABLÉ program and receives a distribution of the funds in the account, the amount of the distribution shall be included in net income on the account owner's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the account owner or any other person as a contribution to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program.

b. For tax years beginning on or after January 1, 2016, if a taxpayer makes a withdrawal of funds previously deducted by the taxpayer or any other person from the Iowa ABLÉ savings plan trust or other qualified ABLÉ program for purposes other than the payment of qualified disability expenses, the amount of the withdrawal shall be included in net income on the taxpayer's Iowa individual income tax return to the extent that contributions to the account had been deducted on prior state individual income tax returns of the taxpayer or any other person.

40.81(6) Maximum contribution level. The amount of the deduction available for an individual taxpayer each year for contributions on behalf of any one designated beneficiary to the Iowa ABLÉ savings plan trust or other qualified ABLÉ program may not exceed the maximum contribution level for that year. The maximum contribution level is set by the treasurer of state. The maximum contribution level is indexed yearly for inflation pursuant to Iowa Code section 12D.3(1)"a."

REVENUE DEPARTMENT[701](cont'd)

This rule is intended to implement Iowa Code section 422.7 as amended by 2015 Iowa Acts, chapter 137.

ITEM 2. Adopt the following **new** subrule 86.5(16):

86.5(16) Qualified ABLE plans exempt. Effective for estates of decedents dying on or after January 1, 2016, the value of the decedent's interest in the Iowa ABLE savings plan trust is not subject to Iowa inheritance tax and therefore is not includable in the decedent's gross estate for tax purposes. The value of the decedent's interest in an ABLE savings program administered by another state with which the Iowa treasurer of state has entered into an agreement allowing Iowa residents to participate in the other state's qualified ABLE program under the terms of Iowa Code section 12I.10 is also not subject to Iowa inheritance tax if the decedent is an Iowa resident. For more information on qualified plans administered by other states, see Iowa Code section 12I.10 and rule 701—40.81(422).

ITEM 3. Amend rule **701—86.5(450)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections ~~422.7(4)~~ 422.7, 450.2, 450.3, 450.4(5), 450.8, 450.12, 450.37, 450.91, 633.699, and 633.703A and Iowa Code ~~Supplement~~ section 450.4 as amended by ~~2008 Iowa Acts, House File 2673, section 2~~ 2015 Iowa Acts, chapter 137.

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REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3, 421.14, and 452A.59, the Department of Revenue hereby amends Chapter 68, "Motor Fuel and Undyed Special Fuel," Iowa Administrative Code.

This amendment is necessary to implement changes to the tax rates on motor fuels effective July 1, 2016. The changes in the tax rates on motor fuels reflect changes in the ethanol distribution percentage for calendar year 2015. Under Iowa Code section 452A.3(1) and 701—paragraph 68.2(2)"a," the rate of excise tax on motor fuels for the fiscal year is based on the ethanol distribution percentage as measured in the previous calendar year.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2619C** on July 6, 2016. The Department allowed public comments until 4:30 p.m. on August 8, 2016. No public comments were received. This amendment is identical to that published under Notice.

Reducing taxes generally stimulates economic growth. However, the Department is unable to predict the specific impact this amendment will have on jobs.

This amendment is intended to implement Iowa Code section 452A.3.

This amendment will become effective on October 5, 2016.

The following amendment is adopted.

Amend subrule 68.2(1) as follows:

68.2(1) The following rates of tax apply to the use of fuel in operating motor vehicles and aircraft:

Gasoline	20.3¢ per gallon (for July 1, 2003, through June 30, 2004)
	20.5¢ per gallon (for July 1, 2004, through June 30, 2005)
	20.7¢ per gallon (for July 1, 2005, through June 30, 2006)
	21¢ per gallon (for July 1, 2006, through June 30, 2007)
	20.7¢ per gallon (for July 1, 2007, through June 30, 2008)
	21¢ per gallon (for July 1, 2008, through February 28, 2015)
	31¢ per gallon (for March 1, 2015, through June 30, 2015)
	30.8¢ per gallon (beginning <u>for July 1, 2015, through June 30, 2016</u>)
	<u>30.7¢ per gallon (beginning July 1, 2016)</u>

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Ethanol blended gasoline	19¢ per gallon (for July 1, 2003, through February 28, 2015) 29¢ per gallon (for March 1, 2015, through June 30, 2015) 29.3¢ per gallon (beginning for July 1, 2015, through June 30, 2016) 29¢ per gallon (beginning July 1, 2016)
E-85 gasoline	17¢ per gallon (for January 1, 2006, through June 30, 2007) 19¢ per gallon (for July 1, 2007, through February 28, 2015) 29¢ per gallon (for March 1, 2015, through June 30, 2015) 29.3¢ per gallon (beginning for July 1, 2015, through June 30, 2016) 29¢ per gallon (beginning July 1, 2016)
Aviation gasoline	8¢ per gallon (beginning July 1, 1988)
Diesel fuel other than B-11 or higher	22.5¢ per gallon (on and before February 28, 2015) 32.5¢ per gallon (beginning March 1, 2015)
Biodiesel blended fuel (B-11 or higher)	22.5¢ per gallon (on and before February 28, 2015) 32.5¢ per gallon (for March 1, 2015, through June 30, 2015) 29.5¢ per gallon (beginning July 1, 2015)
Aviation jet fuel	3¢ per gallon (on and before February 28, 2015) 5¢ per gallon (beginning March 1, 2015)
L.P.G.	20¢ per gallon (on and before February 28, 2015) 30¢ per gallon (beginning March 1, 2015)
C.N.G.	16¢ per 100 cu. ft. (on and before June 30, 2014) 21¢ per gallon (for July 1, 2014, through February 28, 2015) 31¢ per gallon (beginning March 1, 2015)
L.N.G.	22.5¢ per gallon (on and before February 28, 2015) 32.5¢ per gallon (beginning March 1, 2015)

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