



# IOWA ADMINISTRATIVE BULLETIN

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Pages 1607 to 1686

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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

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### 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 2015

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

### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
21	Friday, March 27, 2015	April 15, 2015
22	Friday, April 10, 2015	April 29, 2015
23	Friday, April 24, 2015	May 13, 2015

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days 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\*\*\***

**ALCOHOLIC BEVERAGES DIVISION[185]**

Trade practices, 16.1 to 16.25, 16.40 to 16.44, 16.60, 16.75, 16.90, 16.105, 16.106 IAB 3/18/15 <b>ARC 1915C</b>	Division Boardroom 1918 S.E. Hulsizer Rd. Ankeny, Iowa	April 10, 2015 10 a.m. (If requested)
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**ATTORNEY GENERAL[61]**

Victim services support program, 9.50 to 9.57, 9.59 to 9.65 IAB 3/4/15 <b>ARC 1889C</b>	Conference Room, Ground Floor Crime Victims Compensation Division Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa	April 3, 2015 10 a.m.
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**DENTAL BOARD[650]**

Retention of study models and casts, 27.11 IAB 3/4/15 <b>ARC 1897C</b>	Board Office, Suite D 400 S.W. 8th St. Des Moines, Iowa	March 25, 2015 2 p.m.
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**EDUCATIONAL EXAMINERS BOARD[282]**

Fees; renewal requirements, 12.1, 12.2, 12.4 to 12.6, 12.9, 20.4, 20.8 IAB 3/18/15 <b>ARC 1919C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
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Issuance of licenses and endorsements, amendments to chs 13, 14, 18, 19, 27 IAB 3/18/15 <b>ARC 1918C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
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Career and technical secondary authorization; multioccupations endorsement, adopt 13.28(33), 22.9; rescind ch 17 IAB 3/18/15 <b>ARC 1917C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
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Behind-the-wheel driving instructor authorization—classroom instruction, 23.1 IAB 3/18/15 <b>ARC 1920C</b>	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	April 8, 2015 1 p.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Withdrawal of water from Cambrian-Ordovician (Jordan) aquifer, 50.2, 52.4(3), 52.9(3), 53.7 IAB 3/18/15 <b>ARC 1914C</b>	Meeting Room A, Public Library 1401 5th St. Coralville, Iowa (Please park in lower level lot and <i>not</i> in the two rows by library entrance.)	April 8, 2015 1 p.m.
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Conference Room 2N, Water Supply Section Wallace State Office Bldg. Des Moines, Iowa	April 9, 2015 11 a.m.
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Meeting Room (Large), Public Library 424 Central Ave. Fort Dodge, Iowa	April 10, 2015 11 a.m.
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**ENVIRONMENTAL PROTECTION COMMISSION[567] (cont'd)**

Surface water classification, 61.3(5) IAB 2/18/15 <b>ARC 1877C</b>	Community Meeting Room 15 N. 6th St. Clear Lake, Iowa	March 24, 2015 10 a.m.
	Public Library 21 E. 3rd St. Spencer, Iowa	March 24, 2015 3:30 p.m.
NPDES general permit no. 2—topsoil preservation at construction sites, 64.15(2) IAB 2/18/15 <b>ARC 1873C</b>	Five Seasons Conference Room City Services Center 500 15th Ave. SW Cedar Rapids, Iowa	March 18, 2015 6 p.m.
	Room A Eastern Ave. Branch Library 6000 Eastern Ave. Davenport, Iowa	March 25, 2015 6 p.m.
	Auditorium Wallace State Office Bldg. Des Moines, Iowa	March 27, 2015 1 p.m.

**INSURANCE DIVISION[191]**

Sales of cemetery merchandise, funeral merchandise and funeral services, amend chs 100 to 105; rescind ch 106 IAB 3/4/15 <b>ARC 1888C</b>	Insurance Division Offices, Fourth Floor Two Ruan Center 601 Locust St. Des Moines, Iowa	March 24, 2015 2 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.

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## ARC 1915C

## ALCOHOLIC BEVERAGES DIVISION[185]

## 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 123.21, the Alcoholic Beverages Division hereby gives Notice of Intended Action to amend Chapter 16, “Trade Practices,” Iowa Administrative Code.

The proposed amendment strikes Chapter 16 as it currently appears, reorganizes the existing rules in Chapter 16 into Parts I to VII, and renumbers the rules accordingly. The restructuring is similar to the arrangement of the federal regulations that relate to transactions between industry members and retailers. Language contained within each rule remains the same; however, when another rule is cross-referenced within a rule, the new rule number is used for the cross reference. Subsequent rule making will amend obsolete dates and rules not addressed in this rule making.

Additionally, the following changes are proposed:

- A preamble is added to Chapter 16 to identify the purpose and the persons governed by the chapter.
- A preamble is added to Part I introducing definitions.
- Definitions within Part I are arranged in alphabetical order, subrule references for each definition are removed, and the format for each definition is standardized.
- A preamble is added to Parts II, III, IV, V, and VI to identify the purpose and the persons governed by the rules within each part.
- Rules in Parts II, III, IV, V, VI and VII are reserved to provide for future expansion.
- The rescinded subrule in renumbered rule 185—16.41(123), contained within Part III, is reserved.
- A preamble is added to Part VII concerning violations of Chapter 16.

The proposed amendment organizes and renumbers the rules in Chapter 16 as follows:

<b>New Rule Number</b>	<b>Rule Catchwords</b>	<b>Former Rule Number</b>
	<b>PART I</b>	
16.1	Definitions.	16.1
	<b>PART II</b>	
16.2	Product displays.	16.3
16.3	Retailer advertising utensils, consumer souvenirs, wearing apparel.	16.13
16.4	Wine lists.	16.12
16.5	Glassware.	16.6
16.6	Tapping accessories and coil cleaning service.	16.11
16.7	Tastings, samplings and trade spending.	16.10
16.8, 16.9	Reserved.	
16.10	Discounts prohibited.	16.23
16.11	Combination packaging.	16.9
16.12	Coupons.	16.14
16.13	Advertising.	16.5

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

<b>New Rule Number</b>	<b>Rule Catchwords</b>	<b>Former Rule Number</b>
16.14	Stocking and product rotation.	16.15
16.15	Sponsorships and special events.	16.17
16.16	Participation in seminars and retail association activities.	16.16
16.17	Reserved.	
16.18	Record keeping.	16.20
16.19 to 16.39	Reserved.	
<b>PART III</b>		
16.40	Equipment, furnishings, fixtures.	16.4
16.41	Interest in a retail establishment.	16.2
16.42	Free warehousing prohibited.	16.21
16.43	Extension of credit and prepaid accounts.	16.7
16.44	Quota sales, tie-in sales.	16.8
16.45 to 16.59	Reserved.	
<b>PART IV</b>		
16.60	Implied or express contracts prohibited.	16.22
16.61 to 16.74	Reserved.	
<b>PART V</b>		
16.75	Commercial bribery.	16.18
16.76 to 16.89	Reserved.	
<b>PART VI</b>		
16.90	Consignment sales.	16.19
16.91 to 16.104	Reserved.	
<b>PART VII</b>		
16.105	Industry member, retailer—subject to penalties.	16.24
16.106	Contested case—burden.	16.25
16.107 to 16.119	Reserved.	

Prior to publication of this Notice, the Alcoholic Beverages Division circulated the proposed rules to stakeholders. Comments were received but were not germane to this rule making.

Any person or agency may submit written comments concerning the proposed amendment or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Heather Schaffer, Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa 50021; e-mail [Schaffer@IowaABD.com](mailto:Schaffer@IowaABD.com).
5. Be received by the Alcoholic Beverages Division no later than 4:30 p.m. on April 7, 2015.

A meeting to hear requested oral presentations is scheduled for Friday, April 10, 2015, at 10 a.m. in the boardroom at the Alcoholic Beverages Division, 1918 S.E. Hulsizer Road, Ankeny, Iowa.

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

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

These rules do not provide for waivers in specified situations. An agencywide waiver provision is provided in 185—Chapter 19.

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

These rules are intended to implement Iowa Code chapter 123.

The following amendment is proposed.

Amend 185—Chapter 16 as follows:

CHAPTER 16  
TRADE PRACTICES

**185—16.1(123) Definitions.**

**16.1(1)** Industry member means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, jobber, representative, broker, agent, officer, director, shareholder, partner or employee of each of the above.

**16.1(2)** Retailer means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders, partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

**16.1(3)** Equipment includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, “party wagons,” dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and “picnic” pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

**16.1(4)** Furnishings include, but are not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, menus, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 16.6(123).)

**16.1(5)** Fixtures include, but are not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

**16.1(6)** Exclusion, in whole or in part, of a competitor’s products includes, but is not limited to, any, some or all of the following factors:

- a.*—Position and location of alcoholic beverages products sold during special event.
- b.*—Alcoholic beverages products sold prior to allegation of violation in retail establishment.
- c.*—Industry member and retailer objective intent.
- d.*—Industry member and retailer connection with charitable or civic sponsor of special event.
- e.*—Alcoholic beverages products sold during the event.
- f.*—Sales price and discounts on alcoholic beverages products sold during the event.
- g.*—Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.

**16.1(7)** Cost adjustment factor. The division shall annually adjust the dollar limitations in 16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in 16.13(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in 16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed in this subrule for calendar year 1992 are as follows:

16.3(123) Product displays: \$160.

16.13(123) Retailer advertising utensils: \$78.

16.16(123) Participation in retail association activities: \$160.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~16.1(8)~~ Furnishings, fixtures and equipment do not include the items identified in 16.3(123), 16.5(5), 16.5(6), 16.6(123), 16.10(123), 16.11(123), 16.12(123), or 16.13(5).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.2(123) Interest in a retail establishment.~~

~~16.2(1)~~ An industry member is prohibited, directly or indirectly, from:

- ~~a.~~ Acquiring or holding a partial or complete ownership interest in a retail establishment.
- ~~b.~~ Acquiring or holding an interest in the real or personal property owned, occupied or used by the retailer in the conduct of the retail establishment.
- ~~c.~~ Acquiring a mortgage on the real or personal property owned by the retailer.
- ~~d.~~ Guaranteeing any loan or paying a financial obligation of the retailer, including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities.
- ~~e.~~ Providing financial, legal, administrative or other assistance to a retailer to obtain a license or permit.

~~16.2(2) to 16.2(4)~~ Rescinded IAB 2/16/05, effective 3/23/05.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.3(123) Product displays.~~ An industry member is prohibited, directly or indirectly, from renting, leasing or buying display space from a retailer, paying a retailer to set up a display, giving a special price on the products featured in the display or other products sold by the industry member, or providing free merchandise to a retailer in return for a display.

~~16.3(1)~~ An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

~~16.3(2)~~ The total value of all product displays per brand per calendar year may not exceed \$155. The value of the product display is the industry member's original cost of the item.

~~16.3(3)~~ Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$155. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$155.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.4(123) Equipment, furnishings, fixtures.~~ An industry member is prohibited from giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

~~16.4(1)~~ An industry member is prohibited from obtaining equipment, furnishings, or fixtures for a retailer from a third party at a special price.

~~16.4(2)~~ Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.5(123) Advertising.~~ An industry member is prohibited from paying a retailer, directly or indirectly, to advertise the industry member's alcoholic beverages products.

~~16.5(1)~~ An industry member is prohibited, directly or indirectly, from sharing the cost of an advertisement with a retailer.

~~16.5(2)~~ An industry member is prohibited from purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

~~16.5(3)~~ An industry member may furnish a billboard or "spectacular" sign to a retailer. The sign must bear conspicuous, permanently affixed advertising which identifies the industry member or the

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

industry member's alcoholic beverages products. The sign may be displayed within the establishment or on a fence or similar enclosure facing into the establishment.

If the billboard or sign has secondary value (i.e., electronic, mechanical or manual message center, scorekeeping capabilities, menu board) other than mere advertising, an industry member may furnish a billboard or "spectacular" sign to a retailer provided:

- a. The sign is not on a premises covered by a license or permit;
- b. The sign is not owned by a retail licensee or permittee;
- c. The retailer is not compensated, directly or indirectly, in conjunction with the placement of the sign or advertising thereon;
- d. The furnishing of the "spectacular" sign by an industry member shall not result in exclusion (which includes, but is not limited to, preferential treatment), in whole or in part, of a competitor's alcoholic beverages products in the retail establishment; and
- e. The billboard or "spectacular" sign does not contain or show an advertisement naming or advertising any retailer, or provide any other secondary utility value for the retailer.

~~16.5(4)~~ An industry member may purchase advertising in a publication owned by an incorporated nonprofit trade association of retail members. The publication shall be disseminated to the membership of the association on a regular basis. No revenue derived from the advertising shall be used for the benefit or use of any individual member.

The fact that an industry member did not advertise in the publication shall not be used in any way by the membership jointly or severally to effect a restraint of trade of the brands carried by the industry member failing to advertise.

~~16.5(5)~~ An industry member may give, furnish, loan, rent, or sell copy ready art, newspaper cuts, mats or engraved blocks to retailers for use in retailers' advertisements.

~~16.5(6)~~ An industry member may furnish a retailer with inside signs, including posters, placards, mechanical devices and window decorations and point-of-sale advertising matter (table tents, menu clip-ons) which have no secondary value to the retailer and are designed solely to promote the alcoholic beverages product. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.6(123) Glassware.~~ An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

~~185—16.7(123) Extension of credit and prepaid accounts.~~ An industry member is prohibited from extending credit on the sale of alcoholic liquor, beer, wine coolers, or spirit coolers to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale. An industry member engaged in the manufacturing or wholesaling of beer is prohibited from extending credit to a retailer on the sale of disposable or commemorative glassware. An industry

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

member engaged in the manufacturing or wholesaling of wine may extend not more than 30 days' credit to a retailer on the sale of durable or disposable glassware.

~~16.7(1)~~ An industry member may establish prepaid accounts in which retailers deposit a sum of money in the hands of the industry member to pay for future purchases of alcoholic beverages products, although a retailer is not required to purchase any quota of alcoholic liquor, wine or beer. The industry member may not hold the money so deposited as "security" for future payment of a debt. The industry member must transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment. An industry member is not required to establish separate escrow accounts for prepaid accounts; however, the industry member is responsible for accurately and honestly accounting for the funds so held. A retailer may withdraw the money placed in a prepaid account at any time. An industry member is prohibited from utilizing prepaid accounts to require a retailer to take and dispose of any quota of alcoholic liquor, wine or beer.

~~16.7(2)~~ Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

~~185—16.8(123) Quota sales, tie-in sales.~~ An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.9(123) Combination packaging.~~ An industry member may package and distribute alcoholic liquor, wine or beer in combination with other nonalcoholic items or products provided that the items have no secondary value to the retailer other than having the potential of attracting purchasers and promoting sales. The combination package must be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer. (Industry members who sell alcoholic liquor to the division must comply with the division's policies regarding combination packaging.)

This rule is intended to implement Iowa Code section 123.186.

~~185—16.10(123) Tastings, samplings and trade spending.~~ An industry member may conduct tastings in a retail establishment, provided that the tasting has the indicia of a tasting and is not a subterfuge to provide a retailer with free merchandise. An industry member may provide samples of alcoholic liquor, wine or beer to a retailer who has not previously purchased the brand from the industry member provided that the quantities of any brand of beer do not exceed 3 gallons; of wine, 3 liters; of alcoholic liquor, 500 milliliters. An industry member may engage in the practice of trade spending (purchasing one round of alcoholic or nonalcoholic beverages for patrons of an on-premises retail establishment). An industry member who engages in trade spending is prohibited from paying the retailer more than the ordinary and customary charge for the beverages.

This rule is intended to implement Iowa Code section 123.186.

~~185—16.11(123) Tapping accessories and coil cleaning service.~~ An industry member may sell tapping accessories, identified in rule 16.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost. An industry member may sell, furnish or give wine and beer coil cleaning services to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~185—16.12(123) Wine lists.~~ An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer.

~~This rule is intended to implement Iowa Code section 123.186.~~

~~185—16.13(123) Retailer advertising utensils, consumer souvenirs, wearing apparel.~~ An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer.

~~16.13(1) The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76.~~

~~16.13(2) Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76.~~

~~16.13(3) Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76.~~

~~16.13(4) The value of the retailer advertising utensil is the industry member's original cost of the item.~~

~~16.13(5) An industry member may furnish, give or sell consumer souvenirs to a retailer for unconditional distribution by the retailer to consumers. Consumer souvenirs may include such items as printed recipes, matches, bottle or can openers, corkscrews, shopping bags, pamphlets, leaflets, blotters, postcards, pens or pencils.~~

~~Consumer souvenirs must bear conspicuous advertising matter which identifies the industry member or the industry member's alcoholic beverages product. The industry member may not pay or credit the retailer, directly or indirectly, for distributing consumer souvenirs. There is no dollar limitation on consumer souvenirs.~~

~~Such souvenirs shall be offered to all retailers by the industry member within the industry member's marketing territory on as equal and equitable a basis as possible. In the event the souvenir also advertises a local event not sponsored by the retailer, the souvenir need only be offered by the industry member to the retailers within the local community where the event is held.~~

~~16.13(6) An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.~~

~~This rule is intended to implement Iowa Code sections 123.45 and 123.186.~~

~~185—16.14(123) Coupons.~~ An industry member may offer coupons to the public for mail-in rebates on alcoholic liquor, wine and beer. An industry member must offer all retailers the opportunity to participate in the coupon offering. A retailer may offer its own coupons to consumers, and the retailer's own coupons may be mail-in rebates or instant rebates at the cash register. An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons.

~~This rule is intended to implement Iowa Code section 123.186.~~

~~185—16.15(123) Stocking and product rotation.~~ An industry member may stock and rotate alcoholic liquor, wine or beer sold by the industry member. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer. An industry member may build product displays either at the time of delivery or at other times. An industry member may not reset

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

or rearrange another industry member's products without the explicit consent of the retailer. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

~~**185—16.16(123) Participation in seminars and retail association activities.** An industry member may provide educational seminars for retailers regarding such topics as merchandising and product knowledge, tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.~~

~~**16.16(1)** An industry member may participate in retail association activities in the following manner:~~

~~*a.*—Display its products at a trade show or convention.~~

~~*b.*—Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.~~

~~*c.*—Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.~~

~~*d.*—Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.~~

~~*e.*—Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$155 per calendar year to any one retail association.~~

~~**16.16(2)** Reserved.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.17(123) Sponsorships and special events.** An industry member is prohibited from giving or furnishing a retailer with money, services, or other things of value (including equipment, fixtures and furnishings) in conjunction with a community, civic, charitable or retailer sponsored special event. An industry member may contribute to charitable, civic, religious, fraternal, educational and community activities; however, such contributions may not be given to influence a retailer in the selection of the alcoholic beverages products which may be sold at such activities and events. If the industry member's contribution influences, directly or indirectly, the retailer in selection of alcoholic beverages products, and a competitor's alcoholic beverages products are excluded in whole or in part from sale at the activity or event, the industry member and the retailer violate the provisions of this chapter.~~

~~This rule is intended to implement Iowa Code sections 123.45 and 123.186.~~

~~**185—16.18(123) Commercial bribery.** An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member's alcoholic beverages products.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.19(123) Consignment sales.** An industry member is prohibited from selling alcoholic liquor, wine or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine or beer, until the product is sold by the retailer. An industry member may accept the return of alcoholic liquor, wine and beer for ordinary and usual commercial reasons, but it is not obligated to do so. Ordinary and usual commercial reasons for the return of alcoholic liquor, wine and beer include the following: defective products, error in products delivered and discovered by the retailer and reported to the industry member within seven days of the date of delivery, products which may no longer be lawfully sold, termination of retailer's business, termination of franchise, change in formula, proof, label or container of the product, discontinued product. An industry member is prohibited from accepting the return of overstocked or slow moving or seasonal products. An industry member may repack alcoholic liquor, wine and beer for the purpose of assisting the retailer to sell slow moving or overstocked products.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

~~**185—16.20(123) Record keeping.** Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items which may be provided to retailers in rules 16.3(123) (product displays), 16.6(123) (glassware), 16.10(123) (tastings, samplings, and trade spending), 16.13(123) (retailer advertising utensils, consumer souvenirs, wearing apparel), 16.16(123) (participation in seminars and retail association activities), and 16.17(123) (sponsorships and special events). Commercial records or invoices may be used to satisfy this record-keeping requirement if all the required information appears on the record or invoice. These records shall state the following: the name and address of the retailer receiving the item, the date furnished, sold, given, loaned, leased or rented, the item furnished, the industry member's laid-in cost of the item furnished, and charges to the retailer for the item. Such records shall be open to representatives of the division during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.21(123) Free warehousing prohibited.** An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.22(123) Implied or express contracts prohibited.** An industry member and a retailer are prohibited from entering into implied or express contracts for the future sale and purchase of alcoholic beverages.~~

~~This rule is intended to implement Iowa Code section 123.186.~~

~~**185—16.23(123) Discounts prohibited.** An industry member is prohibited from offering discounts to retailers which are not uniformly offered to all retailers in the market area. An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.~~

~~This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).~~

~~**185—16.24(123) Industry member, retailer—subject to penalties.** An industry member or a retailer who commits, permits or assents to the prohibitions in this chapter shall be subject to administrative penalties including administrative fines, suspension or revocation of the certificate of compliance, license or permit.~~

~~This rule is intended to implement Iowa Code section 123.45.~~

~~**185—16.25(123) Contested case—burden.** In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.~~

~~This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.~~

The rules in this chapter, adopted pursuant to Iowa Code section 123.186, apply to transactions between industry members, trade buyers and retailers. The rules specify practices considered to be fair and allowable as well as practices deemed to be unfair or inducements. This chapter does not exempt any industry member, trade buyer or retailer from the requirements of any federal law or regulation.

PART I

As used in this chapter, the words, terms and phrases defined in this part shall apply, unless a different meaning is clearly indicated by the context.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

**185—16.1(123) Definitions.**

“Cost adjustment factor.” The division shall annually adjust the dollar limitations in rule 185—16.2(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.83. The division shall annually adjust the dollar limitations in rule 185—16.3(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.85. The division shall annually adjust the dollar limitations in rule 185—16.16(123) not to exceed the adjusted annual cost permitted by the federal Bureau of Alcohol, Tobacco, and Firearms contained in 27 CFR 6.100. The dollar limitations for the rules listed herein for calendar year 1992 are as follows:

1. Rule 185—16.2(123) Product displays: \$160.
2. Rule 185—16.3(123) Retailer advertising utensils: \$78.
3. Rule 185—16.16(123) Participation in retail association activities: \$160.

“Equipment” includes, but is not limited to, mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, “party wagons,” dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves and “picnic” pumps) which are used in dispensing wine or beer from kegs or bulk packaging.

“Exclusion,” in whole or in part, of a competitor’s products includes, but is not limited to, any, some or all of the following factors:

1. Position and location of alcoholic beverages products sold during special event.
2. Alcoholic beverages products sold prior to allegation of violation in retail establishment.
3. Industry member and retailer objective intent.
4. Industry member and retailer connection with charitable or civic sponsor of special event.
5. Alcoholic beverages products sold during the event.
6. Sales price and discounts on alcoholic beverages products sold during the event.
7. Any other special considerations or preferential treatment offered by the industry member and accepted by the retailer which were not similarly offered to all retailers in the same market.

“Fixtures” includes, but is not limited to, bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

“Furnishings” includes, but is not limited to, money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, menus, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 185—16.5(123).)

“Furnishings, fixtures and equipment” does not include the items identified in rule 185—16.2(123), subrule 16.3(5), rule 185—16.4(123), rule 185—16.5(123), rule 185—16.6(123), rule 185—16.7(123), subrule 16.13(5), or subrule 16.13(6).

“Industry member” means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, jobber, representative, broker, agent, officer, director, shareholder, partner or employee of each of the above.

“Retailer” means the holder of an alcoholic beverages license or permit, agents, officers, directors, shareholders, partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee or permittee.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

## PART II

The rules in this part specify industry member practices that are allowed, under the conditions and within the limitations prescribed. The rules apply to transactions between industry members and retailers.

**185—16.2(123) Product displays.** An industry member is prohibited, directly or indirectly, from renting, leasing or buying display space from a retailer, paying a retailer to set up a display, giving a special price on the products featured in the display or other products sold by the industry member, or providing free merchandise to a retailer in return for a display.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

16.2(1) An industry member may give, furnish, sell, rent or loan product displays such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

16.2(2) The total value of all product displays per brand per calendar year may not exceed \$155. The value of the product display is the industry member's original cost of the item.

16.2(3) Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display which exceeds \$155. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display which exceeds \$155.

This rule is intended to implement Iowa Code section 123.186.

**185—16.3(123) Retailer advertising utensils, consumer souvenirs, wearing apparel.** An industry member may furnish, give, or sell retailer advertising utensils which bear conspicuous advertising matter permanently affixed to the utensils and which are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. No advertising utensils with secondary value which constitute furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, wine, beer, or food within the place of the retail business of a licensee or permittee shall be given, furnished or sold by an industry member to a retailer.

16.3(1) The total value of all retailer advertising utensils which may be furnished, given or sold by an industry member to a retailer per brand per calendar year may not exceed \$76.

16.3(2) Industry members may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising utensils which exceed \$76.

16.3(3) Industry members may not pool or combine the dollar limitations for several brands in order to provide a retailer with retailer advertising utensils which exceed \$76.

16.3(4) The value of the retailer advertising utensil is the industry member's original cost of the item.

16.3(5) An industry member may furnish, give or sell consumer souvenirs to a retailer for unconditional distribution by the retailer to consumers. Consumer souvenirs may include such items as printed recipes, matches, bottle or can openers, corkscrews, shopping bags, pamphlets, leaflets, blotters, postcards, pens or pencils.

Consumer souvenirs must bear conspicuous advertising matter which identifies the industry member or the industry member's alcoholic beverages product. The industry member may not pay or credit the retailer, directly or indirectly, for distributing consumer souvenirs. There is no dollar limitation on consumer souvenirs.

Such souvenirs shall be offered to all retailers by the industry member within the industry member's marketing territory on as equal and equitable a basis as possible. In the event the souvenir also advertises a local event not sponsored by the retailer, the souvenir need only be offered by the industry member to the retailers within the local community where the event is held.

16.3(6) An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing, which bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel which may be sold by an industry member to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.4(123) Wine lists.** An industry member may furnish, sell, give, rent or loan wine lists and wine menus to a retailer.

This rule is intended to implement Iowa Code section 123.186.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

**185—16.5(123) Glassware.** An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware which bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter which identifies the industry member or the industry member's product. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.6(123) Tapping accessories and coil cleaning service.** An industry member may sell tapping accessories, identified in rule 185—16.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost. An industry member may sell, furnish or give wine and beer coil cleaning services to a retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.7(123) Tastings, samplings and trade spending.** An industry member may conduct tastings in a retail establishment, provided that the tasting has the indicia of a tasting and is not a subterfuge to provide a retailer with free merchandise. An industry member may provide samples of alcoholic liquor, wine or beer to a retailer who has not previously purchased the brand from the industry member provided that the quantities of any brand of beer do not exceed 3 gallons; of wine, 3 liters; of alcoholic liquor, 500 milliliters. An industry member may engage in the practice of trade spending (purchasing one round of alcoholic or nonalcoholic beverages for patrons of an on-premises retail establishment). An industry member who engages in trade spending is prohibited from paying the retailer more than the ordinary and customary charge for the beverages.

This rule is intended to implement Iowa Code section 123.186.

**185—16.8 and 16.9** Reserved.

**185—16.10(123) Discounts prohibited.** An industry member is prohibited from offering discounts to retailers which are not uniformly offered to all retailers in the market area. An industry member is prohibited from refusing to give a retailer a discount which is offered to other retailers in the market area even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

**185—16.11(123) Combination packaging.** An industry member may package and distribute alcoholic liquor, wine or beer in combination with other nonalcoholic items or products provided that the items have no secondary value to the retailer other than having the potential of attracting purchasers and promoting sales. The combination package must be designed to be delivered intact to the consumer and the additional cost incurred by the industry member shall be included in the cost to the retailer. (Industry members who sell alcoholic liquor to the division must comply with the division's policies regarding combination packaging.)

This rule is intended to implement Iowa Code section 123.186.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

**185—16.12(123) Coupons.** An industry member may offer coupons to the public for mail-in rebates on alcoholic liquor, wine and beer. An industry member must offer all retailers the opportunity to participate in the coupon offering. A retailer may offer its own coupons to consumers, and the retailer's own coupons may be mail-in rebates or instant rebates at the cash register. An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons.

This rule is intended to implement Iowa Code section 123.186.

**185—16.13(123) Advertising.** An industry member is prohibited from paying a retailer, directly or indirectly, to advertise the industry member's alcoholic beverages products.

**16.13(1)** An industry member is prohibited, directly or indirectly, from sharing the cost of an advertisement with a retailer.

**16.13(2)** An industry member is prohibited from purchasing advertising from a retailer on such things as, but not limited to, signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

**16.13(3)** An industry member may furnish a billboard or "spectacular" sign to a retailer. The sign must bear conspicuous, permanently affixed advertising which identifies the industry member or the industry member's alcoholic beverages products. The sign may be displayed within the establishment or on a fence or similar enclosure facing into the establishment.

If the billboard or sign has secondary value (i.e., electronic, mechanical or manual message center, scorekeeping capabilities, menu board) other than mere advertising, an industry member may furnish a billboard or "spectacular" sign to a retailer provided:

- a. The sign is not on a premises covered by a license or permit;
- b. The sign is not owned by a retail licensee or permittee;
- c. The retailer is not compensated, directly or indirectly, in conjunction with the placement of the sign or advertising thereon;
- d. The furnishing of the "spectacular" sign by an industry member shall not result in exclusion (which includes, but is not limited to, preferential treatment), in whole or in part, of a competitor's alcoholic beverages products in the retail establishment; and
- e. The billboard or "spectacular" sign does not contain or show an advertisement naming or advertising any retailer, or provide any other secondary utility value for the retailer.

**16.13(4)** An industry member may purchase advertising in a publication owned by an incorporated nonprofit trade association of retail members. The publication shall be disseminated to the membership of the association on a regular basis. No revenue derived from the advertising shall be used for the benefit or use of any individual member.

The fact that an industry member did not advertise in the publication shall not be used in any way by the membership jointly or severally to effect a restraint of trade of the brands carried by the industry member failing to advertise.

**16.13(5)** An industry member may give, furnish, loan, rent, or sell copy ready art, newspaper cuts, mats or engraved blocks to retailers for use in retailers' advertisements.

**16.13(6)** An industry member may furnish a retailer with inside signs, including posters, placards, mechanical devices and window decorations and point-of-sale advertising matter (table tents, menu clip-ons) which have no secondary value to the retailer and are designed solely to promote the alcoholic beverages product. An industry member is prohibited from paying the retailer for any incidental expenses related to the operation of the inside sign.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.14(123) Stocking and product rotation.** An industry member may stock and rotate alcoholic liquor, wine or beer sold by the industry member. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer. An industry member may build product displays either at the time of delivery or at other times. An industry member may not reset

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

or rearrange another industry member's products without the explicit consent of the retailer. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

**185—16.15(123) Sponsorships and special events.** An industry member is prohibited from giving or furnishing a retailer with money, services, or other things of value (including equipment, fixtures and furnishings) in conjunction with a community, civic, charitable or retailer-sponsored special event. An industry member may contribute to charitable, civic, religious, fraternal, educational and community activities; however, such contributions may not be given to influence a retailer in the selection of the alcoholic beverages products which may be sold at such activities and events. If the industry member's contribution influences, directly or indirectly, the retailer in selection of alcoholic beverages products, and a competitor's alcoholic beverages products are excluded in whole or in part from sale at the activity or event, the industry member and the retailer violate the provisions of this chapter.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.16(123) Participation in seminars and retail association activities.** An industry member may provide educational seminars for retailers regarding such topics as merchandising and product knowledge, tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

**16.16(1)** An industry member may participate in retail association activities in the following manner:

a. Display its products at a trade show or convention.

b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.

c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.

d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.

e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed \$155 per calendar year to any one retail association.

**16.16(2)** Reserved.

This rule is intended to implement Iowa Code section 123.186.

**185—16.17(123)** Reserved.

**185—16.18(123) Record keeping.** Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items which may be provided to retailers in rules 185—16.2(123) (product displays), 185—16.3(123) (retailer advertising utensils, consumer souvenirs, wearing apparel), 185—16.5(123) (glassware), 185—16.7(123) (tastings, samplings, and trade spending), 185—16.15(123) (sponsorships and special events), and 185—16.16(123) (participation in seminars and retail association activities). Commercial records or invoices may be used to satisfy this record-keeping requirement if all the required information appears on the record or invoice. These records shall state the following: the name and address of the retailer receiving the item, the date furnished, sold, given, loaned, leased or rented, the item furnished, the industry member's laid-in cost of the item furnished, and charges to the retailer for the item. Such records shall be open to representatives of the division during normal business hours of the industry member, and may be subject to administrative subpoena issued by the division administrator.

This rule is intended to implement Iowa Code section 123.186.

**185—16.19 to 16.39** Reserved.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

The rules in this part specify industry member practices that are a means to induce a retailer and that are prohibited. The rules apply to transactions between industry members and retailers.

**185—16.40(123) Equipment, furnishings, fixtures.** An industry member is prohibited from giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

**16.40(1)** An industry member is prohibited from obtaining equipment, furnishings, or fixtures for a retailer from a third party at a special price.

**16.40(2)** Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.41(123) Interest in a retail establishment.**

**16.41(1)** An industry member is prohibited, directly or indirectly, from:

- a. Acquiring or holding a partial or complete ownership interest in a retail establishment.
- b. Acquiring or holding an interest in the real or personal property owned, occupied or used by the retailer in the conduct of the retail establishment.
- c. Acquiring a mortgage on the real or personal property owned by the retailer.
- d. Guaranteeing any loan or paying a financial obligation of the retailer, including, but not limited to, personal loans, home mortgages, car loans, operating capital obligations, or utilities.
- e. Providing financial, legal, administrative or other assistance to a retailer to obtain a license or permit.

**16.41(2)** Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

**185—16.42(123) Free warehousing prohibited.** An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer.

This rule is intended to implement Iowa Code section 123.186.

**185—16.43(123) Extension of credit and prepaid accounts.** An industry member is prohibited from extending credit on the sale of alcoholic liquor, beer, wine coolers, or spirit coolers to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale. An industry member engaged in the manufacturing or wholesaling of beer is prohibited from extending credit to a retailer on the sale of disposable or commemorative glassware. An industry member engaged in the manufacturing or wholesaling of wine may extend not more than 30 days' credit to a retailer on the sale of durable or disposable glassware.

**16.43(1)** An industry member may establish prepaid accounts in which retailers deposit a sum of money in the hands of the industry member to pay for future purchases of alcoholic beverages products, although a retailer is not required to purchase any quota of alcoholic liquor, wine or beer. The industry member may not hold the money so deposited as "security" for future payment of a debt. The industry member must transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment. An industry member is not required to establish separate escrow accounts for prepaid accounts; however, the industry member is responsible for accurately and honestly accounting for the funds so held. A retailer may withdraw the money placed in a prepaid account at any time. An industry member is prohibited from utilizing prepaid accounts to require a retailer to take and dispose of any quota of alcoholic liquor, wine or beer.

**16.43(2)** Reserved.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

**185—16.44(123) Quota sales, tie-in sales.** An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code section 123.186.

185—16.45 to 16.59 Reserved.

## PART IV

The rule in this part specifies that exclusive outlet arrangements with retailers are prohibited. The rule applies to transactions between industry members and retailers.

185—16.60(123) Implied or express contracts prohibited. An industry member and a retailer are prohibited from entering into implied or express contracts for the future sale and purchase of alcoholic beverages.

This rule is intended to implement Iowa Code section 123.186.

185—16.61 to 16.74 Reserved.

## PART V

The rule in this part specifies industry member practices that are a means to induce a trade buyer and that are prohibited. The rule applies to transactions between industry members and employees, officers, or representatives of trade buyers.

185—16.75(123) Commercial bribery. An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member's alcoholic beverages products.

This rule is intended to implement Iowa Code section 123.186.

185—16.76 to 16.89 Reserved.

## PART VI

The rule in this part specifies that consignment sales arrangements are prohibited. The rule applies to transactions between industry members and trade buyers.

185—16.90(123) Consignment sales. An industry member is prohibited from selling alcoholic liquor, wine or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine or beer, until the product is sold by the retailer. An industry member may accept the return of alcoholic liquor, wine and beer for ordinary and usual commercial reasons, but it is not obligated to do so. Ordinary and usual commercial reasons for the return of alcoholic liquor, wine and beer include the following: defective products, error in products delivered and discovered by the retailer and reported to the industry member within seven days of the date of delivery, products which may no longer be lawfully sold, termination of retailer's business, termination of franchise, change in formula, proof, label or container of the product, discontinued product. An industry member is prohibited from accepting the return of overstocked or slow moving or seasonal products. An industry member may repack alcoholic liquor, wine and beer for the purpose of assisting the retailer to sell slow moving or overstocked products.

This rule is intended to implement Iowa Code section 123.186.

185—16.91 to 16.104 Reserved.

## PART VII

The rules in this part govern the penalties for violations of rules within this chapter.

## ALCOHOLIC BEVERAGES DIVISION[185](cont'd)

**185—16.105(123) Industry member, retailer—subject to penalties.** An industry member or a retailer who commits, permits or assents to the prohibitions in this chapter shall be subject to administrative penalties including administrative fines, suspension or revocation of the certificate of compliance, license or permit.

This rule is intended to implement Iowa Code section 123.45.

**185—16.106(123) Contested case—burden.** In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.

This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.

**185—16.107 to 16.119** Reserved.

## ARC 1919C

**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(2), the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 12, “Fees,” and Chapter 20, “Renewals,” Iowa Administrative Code.

The proposed amendments simplify Chapter 12 regarding fees and will allow for fewer rule changes in the future by establishing a uniform fee unless otherwise stated. All fees for licenses, certificates, authorizations, and statements of professional recognition issued by the Board would remain the same, with the exception of the fee for a teacher intern license, which would be reduced from \$125 to \$85 to mirror the fee for the majority of the Board’s other certifications. The proposed amendments also address an inconsistency between Chapter 12 and Chapter 20 regarding the deadline for submitting documents requested in a licensure application audit and remove cross references in Chapter 20 that would be rendered incorrect by the proposed amendments to Chapter 12. Finally, the proposed amendments would establish a \$25 fee for adding an endorsement to a paraeducator certificate only. Currently, the rules state that the fee for adding any endorsement is \$50.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 10, 2015. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the address listed below, or sent by e-mail to [kim.cunningham@iowa.gov](mailto: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, April 8, 2015, 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.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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 are subject to waiver pursuant to 282—Chapter 6.

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

These amendments are intended to implement Iowa Code section 272.2(2).

The following amendments are proposed.

ITEM 1. Amend 282—Chapter 12 as follows:

## CHAPTER 12

## FEES

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

1. Initial license shall be \$85.
2. Standard license shall be \$85.
3. Master educator license shall be \$85.
4. Substitute license shall be \$85.
5. Provisional occupational (career and technical) secondary license shall be \$85.
6. Occupational (career and technical) secondary license shall be \$85.
7. Administrator, counselor, or teacher exchange license shall be \$85.
8. Initial administrator license shall be \$85.
9. Professional administrator license shall be \$85.
10. Evaluator license shall be \$85.
11. Class A, B, C, D or G license shall be \$85.
12. 1. Class E emergency license shall be \$150.
13. 2. Paraeducator certificate shall be \$40.
14. Statement of professional recognition shall be \$85.
15. Coaching authorization shall be \$85.
16. Substitute authorization shall be \$85.
17. 3. Behind-the-wheel authorization shall be \$40.
18. Teacher intern license shall be \$125.
19. Professional service license shall be \$85.

**282—12.2(272) Fees for the renewal or extension of licenses, certificates, statements of professional recognition, and authorizations.** The fees fee for the renewal or extension of the following licenses, certificates, statements of professional recognition, and authorizations are set as follows a license, certificate, statement of professional recognition, or authorization shall be \$85 unless otherwise specified below:

1. The renewal of the initial license shall be \$85.
2. The renewal of the standard license shall be \$85.
3. The renewal of the master educator license shall be \$85.
4. The renewal of the substitute license shall be \$85.
5. The renewal of the occupational (career and technical) secondary license shall be \$85.
6. The renewal of the initial administrator license shall be \$85.
7. The renewal of the professional administrator license shall be \$85.
8. The renewal of the evaluator license shall be \$85.
9. The renewal of the AEA administrator license shall be \$85.
10. 1. The renewal of the paraeducator certificate shall be \$40.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

- ~~11. The renewal of a statement of professional recognition shall be \$85.~~  
~~12. The renewal of the coaching authorization shall be \$85.~~  
~~13. The renewal of the substitute authorization shall be \$85.~~  
 14. 2. The renewal of the behind-the-wheel authorization shall be \$40.  
~~15. A one-year extension for renewal of a professional administrator license shall be \$25 if evaluator II has not been completed. The one-year extension will not be issued, pursuant to 282—subrule 19.7(2), on or after July 1, 2008.~~  
 16. 3. A one-year extension for renewal of a coaching authorization shall be \$40.  
 17. 4. A one-year extension of the Class A initial license shall be \$25. ~~The~~ This extension may be issued if the applicant needs one additional year to meet the experience requirement for the standard license, but has met Iowa teaching standards, pursuant to rule 282—20.4(272).  
~~18. A one-year extension of a Class A, B, C, or D or exchange license shall be \$150.~~  
 19. 5. A \$25 fee for an extension of the initial administrator license may be issued instead of renewing the initial administrator license, if the applicant verifies one of the ~~following~~ criteria listed in 282—subrule 20.8(2).  
 20. ~~The renewal of the professional service license shall be \$85.~~

**282—12.3(272)** No change.

**282—12.4(272) Adding endorsements.**

**12.4(1)** *Fee for each added endorsement.* The fee for each additional endorsement to a license following the issuance of the initial license and endorsement(s) shall be \$50. The fee for each additional endorsement added to a paraeducator certificate shall be \$25.

**12.4(2)** No change.

**282—12.5(272) Duplicate licenses, authorizations, and statements of professional recognition.** The fee for the issuance of a duplicate practitioner's license, ~~evaluator license certificate~~, statement of professional recognition, or ~~coaching~~ authorization shall be \$15.

**282—12.6(272) Late fees.**

**12.6(1)** An additional fee of \$25 per calendar month, not to exceed \$150, shall be imposed if a ~~renewal an application for renewal, a two-year exchange license, a conversion,~~ Class A, B, ~~C, D,~~ or E license or a statement of professional recognition (SPR) is submitted after the date of expiration of a practitioner's license. Waiver of the late fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

**12.6(2)** No change.

**12.6(3)** Failure to hold valid Iowa license or authorization. An additional fee of \$100 per calendar month, not to exceed \$500, shall be imposed if the practitioner does not hold a valid Iowa license or authorization. The fee will begin to be assessed on the first day of the school year for which the practitioner is employed until the practitioner submits a completed application packet for the appropriate license. The penalty will enforce Iowa Code section 272.7. Waiver of the fee will be granted only upon a showing of extraordinary circumstances rendering imposition of the fee unreasonable.

**282—12.7(272)** No change.

**282—12.8(272)** No change.

**282—12.9(272) Retention of incomplete applications.**

**12.9(1) and 12.9(2)** No change.

**12.9(3)** *Timeline for audited online renewals.* Upon receipt of notification that the online renewal application has been audited, the applicant shall have 45 30 days to submit the official transcripts and mandatory reporter verification to the board office. If the materials are not received within that timeline, the applicant will be notified that the application process is closed. If the applicant submits information

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

after the ~~45~~ 30-day deadline, the application process requires submission of a complete set of application materials and fees. If the license expires during the ~~45~~ 30-day deadline and the applicant is teaching, the school district will be notified that the applicant's license is expired and the individual shall not continue teaching until the complete application materials are submitted to the board office.

**12.9(4) Request for additional time.** If the applicant is not able to submit the application materials within the ~~45-day~~ deadline, the applicant may contact the executive director with a request for additional time. The applicant must submit verification as to the need for the additional time. The executive director will review the request and provide a written decision either approving or denying the request.

These rules are intended to implement Iowa Code chapter 272.

ITEM 2. Amend rule 282—20.4(272) as follows:

**282—20.4(272) Specific renewal requirements for the initial license.** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272). If a person meets all requirements for the standard license except for the options required in rule 282—13.7(272), paragraph “2,” the initial license may be renewed upon written request. A second renewal may be granted if the holder of the initial license has not met the options required in rule 282—13.7(272), paragraph “2,” and if the license holder can provide evidence of teaching employment which will be acceptable for the experience requirement. ~~Following payment of the appropriate fee (see rule 282—12.2(272), paragraph “17”),~~ a A Class A license may be issued instead of the renewal of the initial license for another initial license if the applicant verifies one of the following:

1. The applicant is involved in the second year of the mentoring and induction program, but the license will expire before the second year of teaching is completed.
2. The applicant has taught for two years in a nonpublic school setting and needs one additional year of teaching to convert the initial license to the standard license.

ITEM 3. Amend rule 282—20.8(272) as follows:

**282—20.8(272) Specific renewal requirements for the initial administrator license.** In addition to the provisions set forth in this rule, an applicant must meet the general requirements set forth under rule 282—20.3(272).

**20.8(1)** No change.

**20.8(2) Extension.** ~~Following payment of the appropriate fee (see 282—subrule 12.2(19)),~~ an An extension of the initial administrator license may be issued instead of the renewal of the initial administrator license; if the applicant verifies one of the following:

- a.* The applicant is involved in a mentoring and induction program, but the license will expire before the first year of administrative experience is completed.
- b.* The applicant has one year of administrative experience in a nonpublic school setting or in an out-of-state setting and needs one additional year of administrative experience to convert the initial license to the professional license.

**ARC 1918C****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,” Chapter 14, “Special Education Endorsements,” Chapter 18, “Issuance of Administrator Licenses and Endorsements,” Chapter 19, “Evaluator Endorsement and License,” and Chapter 27, “Issuance of Professional Service Licenses,” Iowa Administrative Code.

The proposed amendments to Chapter 13 remove a significant amount of redundant language that is set forth elsewhere in rules of either the Board of Educational Examiners or the Department of Education. The following amendments are proposed to better reflect the substance of certain licenses:

1. The “Class A” license is renamed the “Class A extension” license;
2. The “exception” under a Class B license is renamed the “executive director decision”; and
3. The “Class E” license is renamed the “Class E emergency extension” license.

In addition, the proposed amendments to Chapter 13 reflect the following:

1. The Executive Director is authorized to allow holders of a substitute license to serve outside their authority in unique circumstances.
2. To reflect the duration of the most common teacher exchange programs in Iowa, the duration of the international teacher exchange license is changed from three years to one year unless the applicant can verify continued participation in the program.
3. The “teacher—elementary classroom” endorsement requirements will sunset on August 31, 2015.
4. The authority of the “elementary school teacher librarian” endorsement is expanded from kindergarten through eighth grade to prekindergarten through eighth grade.

The proposed amendments to the Board’s other chapters remove cross references that would be rendered incorrect by the proposed changes to Chapter 13 and remove additional redundant language. The proposed amendments would add the requirement for cultural competency for initial administrator license applicants who currently hold a professional service license. Finally, the proposed amendments would allow out-of-state candidates for administrator licensure to submit an expired out-of-state administrator license if their out-of-state license is not current. This change is reflective of the requirements for out-of-state candidates for teacher licensure and provides relief to candidates who face significant hurdles in renewing expired out-of-state licenses in order to become licensed in Iowa. These candidates will continue to be required to verify completion of all Iowa-required coursework and other Iowa requirements.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 10, 2015. 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 50319-0147, or sent by e-mail to [kim.cunningham@iowa.gov](mailto: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, April 8, 2015, 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

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

at the public hearing may contact the Executive Director, Board of Educational Examiners, at the above address, 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 are subject to waiver pursuant to 282—Chapter 6.

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

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Rescind and reserve rules **282—13.2(272)** to **282—13.4(272)**.

ITEM 2. Amend rules 282—13.5(272) to 282—13.7(272) as follows:

**282—13.5(272) Teacher licenses.** A license may be issued to applicants who fulfill the general requirements set out in subrule 13.5(1) and the specific requirements set out for each license.

**13.5(1) General requirements.** The applicant shall:

- a. Have a baccalaureate degree from a regionally accredited institution.
- b. Have completed a state-approved teacher education program ~~which meets the requirements of the professional education core.~~
- c. Have completed ~~an approved human relations component~~ the teacher preparation coursework set forth in 281—subrules 79.15(2) to 79.15(5).
- d. Have completed ~~the exceptional learner component~~ student teaching in the subject area and grade level endorsement desired.
- e. Have completed the requirements for one of the basic teaching endorsements.
- f. ~~Meet the recency requirement of subrule 13.10(3).~~ Provide a recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed.

**13.5(2) Renewal requirements.** ~~Applicants from non-Iowa institutions. Renewal requirements for teacher licenses are set out in 282—Chapter 20.~~

a. Definitions.

“Nontraditional” means any method of teacher preparation that falls outside the traditional method of preparing teachers, that provides at least a one- or two-year sequenced program of instruction taught at regionally accredited and state-approved colleges or universities, that includes commonly recognized pedagogy classes being taught for course credit, and that requires a student teaching component.

“Proficiency,” for the purposes of paragraph 13.5(2)“e,” means that an applicant has passed all parts of the standard.

“Recognized non-Iowa teacher preparation institution” means an institution that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

b. In addition to the requirements set forth in subrule 13.5(1), applicants from non-Iowa institutions:

(1) Shall submit a copy of a valid or expired regular teaching certificate or license exclusive of a temporary, emergency or substitute license or certificate.

(2) Shall provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed (or verify highly qualified status) or must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

(3) Shall provide an official institutional transcript(s) to be analyzed for the requirements necessary for Iowa licensure. An applicant must have completed at least 75 percent of the coursework as outlined in 281—subrules 79.15(2) to 79.15(5) and an endorsement requirement through a two- or four-year

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institution in order for the endorsement to be included on the license. An applicant who has not completed at least 75 percent of the coursework for at least one of the basic Iowa teaching endorsements completed will not be issued a license.

(4) Shall demonstrate recency of experience by providing verification of either one year of teaching experience or six semester hours of college credit during the five-year period immediately preceding the date of application.

(5) Shall not be subject to any pending disciplinary proceedings in any state or country.

(6) Shall comply with all requirements with regard to application processes and payment of licensure fees.

c. If through a transcript analysis, the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5) or one of the basic teaching endorsement requirements for Iowa is not met, the applicant may be eligible for the equivalent Iowa endorsement areas, as designated by the Iowa board of educational examiners, based on current and valid National Board Certification.

d. If the teacher preparation program was considered nontraditional, candidates will be asked to verify the following:

(1) That the program was for secondary education;

(2) A cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution; and

(3) The completion of a student teaching or internship experience or three years of teaching experience.

e. If the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5) cannot be reviewed through a traditional transcript evaluation, a portfolio review and evaluation process may be utilized.

(1) An applicant must demonstrate proficiency in a minimum of at least 75 percent of the teacher preparation coursework as outlined in 281—subrules 79.15(2) to 79.15(5).

(2) An applicant must meet with the board of educational examiners to answer any of the board's questions concerning the portfolio.

**13.5(3) *Applicants from foreign institutions.*** An applicant for initial licensure whose preparation was completed in a foreign institution must obtain a course-by-course credential evaluation report completed by one of the board-approved credential evaluation services and then file this report with the Iowa board of educational examiners for a determination of eligibility for licensure. After receiving the notification of eligibility by the Iowa board of educational examiners, the applicant must provide verification of successfully passing the Iowa-mandated assessment(s) by meeting the minimum score set by the Iowa department of education.

**282—13.6(272) Specific requirements for an initial license.** An initial license valid for two years may be issued to an applicant who meets the general requirements set forth in ~~subrule 13.5(1)~~ rule 282—13.5(272).

**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 ~~subrule 13.5(1)~~ 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. 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.

ITEM 3. Amend rules 282—13.9(272) to 282—13.11(272) as follows:

**282—13.9(272) Teacher intern license.**

**13.9(1) *Authorization.*** The teacher intern is authorized to teach in grades 7 to 12.

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**13.9(2) Term.** The term of the teacher intern license will be one school year. This license is nonrenewable. The fee for the teacher intern license is in 282—Chapter 12.

**13.9(3) Teacher intern requirements.** A teacher intern license shall be issued upon application, provided that the following requirements have been met. The applicant shall: may be issued to an applicant who has been recommended by an institution with a state-approved intern program and who has met the background check requirements set forth in rule 282—13.1(272).

*a.*—Hold a baccalaureate degree with a minimum cumulative grade point average of 2.50 on a 4.0 scale from a regionally accredited institution or meet the admission criteria set forth in 281—subrule 77.11(2).

*b.*—Meet the requirements of at least one of the board's secondary (5-12) teaching endorsements listed in rule 282—13.28(272).

*c.*—Possess a minimum of three years of postbaccalaureate work experience. An authorized official at a college or university with an approved teacher intern program will evaluate this experience.

*d.*—Successfully complete the teacher intern program requirements listed in subrule 13.9(4) and approved by the state board of education.

*e.*—Successfully pass a basic skills test at the level approved by the teacher education institution.

**13.9(4) Program requirements.** The teacher intern shall:

*a.*—Complete the following requirements prior to the internship year:

(1) Learning environment/classroom management. The intern uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning, and self-motivation.

(2) Instructional planning. The intern plans instruction based upon knowledge of subject matter, students, the community, curriculum goals, and state curriculum models.

(3) Instructional strategies. The intern understands and uses a variety of instructional strategies to encourage students' development of critical thinking, problem solving, and performance skills.

(4) Student learning. The intern understands how students learn and develop and provides learning opportunities that support intellectual, career, social, and personal development.

(5) Diverse learners. The intern understands how students differ in their approaches to learning and creates instructional opportunities that are equitable and are adaptable to diverse learners.

(6) Collaboration, ethics and relationships. The intern fosters relationships with parents, school colleagues, and organizations in the larger community to support students' learning and development.

(7) Assessment. The intern understands and uses formal and informal assessment strategies to evaluate the continuous intellectual, social, and physical development of the learner.

(8) Field experiences that provide opportunities for interaction with students in an environment that supports learning in context. These experiences shall total at least 50 contact hours in the field prior to the beginning of the academic year of the candidate's initial employment as a teacher intern.

*b.*—Complete four semester hours of a teacher intern seminar during the teacher internship year to include support and extension of coursework from the teacher intern program.

*c.*—Complete the coursework and competencies in the following areas:

(1) Foundations, reflection, and professional development. The intern continually evaluates the effects of the practitioner's choices and actions on students, parents, and other professionals in the learning community and actively seeks out opportunities to grow professionally.

(2) Communication. The intern uses knowledge of effective verbal, nonverbal, and media communication techniques, and other forms of symbolic representation, to foster active inquiry and collaboration and to support interaction in the classroom.

(3) Exceptional learner program, which must include preparation that contributes to the education of individuals with disabilities and the gifted and talented.

(4) Preparation in the integration of reading strategies into the content area.

(5) Computer technology related to instruction.

(6) An advanced study of the items set forth in 13.9(4) "a"(1) to (7) above.

**13.9(5) Local school district requirements.** The local school district shall:

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~~a. Provide an offer of employment to an individual who has been evaluated by a college or university for eligibility or acceptance in the teacher intern program.~~

~~b. Participate in a mentoring and induction program.~~

~~c. Provide a district mentor for the teacher intern.~~

~~d. Provide other support and supervision, as needed, to maximize the opportunity for the teacher intern to succeed.~~

~~e. Not overload the teacher intern with extracurricular duties not directly related to the teacher intern's teaching assignment.~~

~~f. Provide evidence to the board from a licensed evaluator that the teacher intern is participating in a mentoring and induction program.~~

~~g. At the board's request, provide information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.~~

**13.9(6) 13.9(4) Requirements to convert the teacher intern license to the initial license.**

~~a. An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements: as verified by the recommendation from the state-approved program.~~

~~(1) Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education.~~

~~(2) Verification from a licensed evaluator that the teacher intern served successfully for a minimum of 160 days.~~

~~(3) Verification from a licensed evaluator that the teacher intern is participating in a mentoring and induction program and is being assessed on the Iowa teaching standards.~~

~~(4) Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.~~

~~(5) At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.~~

~~b. The teacher intern year will count as one of the years that is needed for the teacher intern to convert the initial license to the standard license if the conditions listed in paragraph 13.9(6) "a" have been met.~~

**13.9(7) Requirements to obtain the initial license if the teacher intern does not complete the internship year.**

~~a. An initial license shall be issued upon application provided that the teacher intern has met the requirements for one of the following options:~~

~~(1) Option #1:~~

~~1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and~~

~~2. Verification by a college or university that the teacher intern successfully completed the college's or university's state-approved student teaching requirements; and~~

~~3. Recommendation by a college or university offering an approved teacher intern program that the individual is eligible for an initial license.~~

~~(2) Option #2:~~

~~1. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education; and~~

~~2. Verification by the approved teacher intern program that the teacher intern successfully completed 40 days of paid substitute teaching; and~~

~~3. Verification by the teacher intern program that the teacher intern successfully completed 40 days of co-teaching; and~~

~~4. Recommendation by the approved teacher intern program that the individual is eligible for an initial license.~~

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~~b. At the board's request, the teacher intern shall provide to the board information including, but not limited to, the teacher intern selection and preparation program, institutional support, local school district mentor, and local school district support.~~

~~13.9(8)~~ **13.9(5)** *Requirements to extend the teacher intern license if the teacher intern does not complete all of the education coursework during the term of the teacher intern license.*

a. A one-year extension of the teacher intern license may be issued upon application provided that the teacher intern has met both of the following requirements:

(1) Successful completion of ~~160~~ one year of teaching experience during the teacher internship.

(2) Verification by the recommending official at the approved teacher intern program that the teacher intern has not completed all of the coursework required for the initial license.

b. Only one year of teaching experience during the term of the teacher intern license or the extension of a teacher intern license may be used to convert the teacher intern license to a standard teaching license.

~~13.9(9)~~ *Requirements to obtain a teacher intern license if teaching in an international school. A teacher intern candidate shall:*

a. Hold a baccalaureate degree from an accredited institution.

b. Meet the requirements of at least one of the board's secondary (5-12) teaching endorsements listed in rule 282—13.28(272).

c. Successfully complete the teacher intern program requirements listed in 13.9(4) "a"(1) to (7), 13.9(4) "b" and 13.9(4) "c"(1) to (6) through a four-year college or university and approved by the state board of education.

~~13.9(10)~~ *Requirements to convert the teacher intern license to the initial license if teaching in an international school. An initial license shall be issued upon application provided that the teacher intern has met all of the following requirements:*

a. Successful completion of the coursework and competencies in the teacher intern program approved by the state board of education.

b. Verification that the teacher intern served successfully for a minimum of 160 days.

**282—13.10(272) Specific requirements for a Class A extension license.** A nonrenewable Class A extension license valid for one year may be issued to an individual who has completed a teacher education program under any one of the following conditions:

~~13.10(1)~~ *Professional core requirements.* The individual has not completed all of the required courses in the professional core, 13.18(4) "a" through "j."

~~13.10(2)~~ *Human relations component.* The individual has not completed an approved human relations component.

~~13.10(3)~~ *Recency.* The individual meets the requirements for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credits and, where recent credits are required, these credits shall be taken in professional education or in the applicant's endorsement area(s).

~~13.10(4)~~ *Degree not granted until next regular commencement.* Rescinded IAB 9/9/09, effective 10/14/09.

~~13.10(5)~~ **13.10(1)** *Based on an expired Iowa certificate or license, exclusive of a Class A extension or Class B license.*

a. The holder of an expired license, exclusive of a Class A extension or Class B license, shall be eligible to receive a Class A extension license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

b. The holder of an expired license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the

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renewal requirements for the license held shall be required to secure the signature of the superintendent or designee before the license will be issued.

~~13.10(6)~~ **13.10(2)** *Based on a mentoring and induction program.* An applicant may be eligible for a Class A extension license if the school district, after conducting a comprehensive evaluation, recommends and verifies that the applicant shall participate in the mentoring program for a third year. No further extensions are available for this type of Class A extension license.

~~13.10(7)~~ *Based on an administrative decision.* ~~The executive director is authorized to issue a Class A license to an applicant whose services are needed to fill positions in unique need circumstances.~~

**282—13.11(272) Specific requirements for a Class B license.** A Class B license, which is valid for two years and which is nonrenewable, may be issued to an individual under the following conditions:

**13.11(1) Endorsement in progress.** The individual has a valid initial, standard, master educator, permanent professional, Class A ~~(one-year extension of an initial, standard, or master educator)~~ extension, exchange, or professional service license and one or more endorsements but is seeking to obtain some other endorsement. A Class B license may be issued if requested by an employer and if the individual seeking to obtain some other endorsement has completed at least two-thirds of the requirements, or one-half of the content requirements in a state-designated shortage area, leading to completion of all requirements for the endorsement. A Class B license may not be issued for the driver's education endorsement.

**13.11(2)** No change.

~~13.11(3) Request for exception~~ executive director decision. ~~A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request. If the minimum content requirements have not been met for the Class B license, a one-year executive director decision license may be issued if requested by the school district and if the school district can demonstrate that a candidate with the proper endorsement was not found after a diligent search. The executive director decision license may not be renewed and will expire on June 30 of the fiscal year in which it was issued.~~

~~13.11(4) Provisional occupational license.~~ ~~If an individual is eligible for a provisional occupational license but has not met all of the experience requirements, a Class B license may be issued while the individual earns the necessary experience.~~

~~13.11(5)~~ **13.11(4) Expiration.** ~~This~~ The Class B license will expire on June 30 of the fiscal year in which it was issued plus one year.

ITEM 4. Amend rule 282—13.14(272) as follows:

**282—13.14(272) Specific requirements for a Class E emergency extension license.** A nonrenewable license valid for one year may be issued to an individual as follows:

**13.14(1) Expired license.** Based on an expired Class A, ~~or Class B,~~ ~~or teacher exchange~~ license, the holder of the expired license shall be eligible to receive a Class E emergency extension license upon application and submission of all required materials.

**13.14(2) Application.** The application process will require transcripts of coursework completed during the term of the expired license, a program of study indicating the coursework necessary to obtain full licensure, and registration for coursework to be completed during the term of the Class E emergency extension license. The Class E emergency extension license will be denied if the applicant has not completed any coursework during the term of the Class A or Class B license unless extenuating circumstances are verified.

ITEM 5. Amend rules 282—13.16(272) and 282—13.17(272) as follows:

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

**13.16(1) Substitute teacher requirements.** A substitute teacher's license may be issued to an individual who provides verification of successfully passing the Iowa-mandated assessment(s) by

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meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013, and who:

*a.* Has completed a traditional teacher preparation program and been the holder of, or presently holds, or is eligible to hold, a license in Iowa; or holds or held a regular teacher's license or certificate in another state, exclusive of temporary, emergency, or substitute certificate or license; or

*b.* Has successfully completed all requirements of an approved teacher education program, but did not apply for an Iowa teacher's license at the time of completion of the approved program; or

*e. b.* Holds a valid or expired teaching certificate based on a nontraditional teacher preparation program, is able to verify three years of teaching experience, and provides passing scores on tests mandated by the state that issued the certificate. The license issued will contain a disclaimer stating that the holder of this license may not be eligible for full Iowa teaching licensure.

**13.16(2) Validity.** A substitute license is valid for five years and for not more than 90 days of teaching in one assignment during any one school year. A school district administrator may file a written request with the board for an extension of the 90-day limit in one assignment on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.

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

**282—13.17(272) Specific requirements for exchange licenses.** ~~An applicant seeking Iowa licensure who completes the teacher preparation program from a recognized non-Iowa institution shall verify the requirements of subrules 13.18(4) and 13.18(5) through traditional course-based preparation program and transcript review. A recognized non-Iowa teacher preparation institution is one that is state approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants for nontraditional exchange licenses are not required to have received their preparation through regionally approved teacher education programs.~~

**13.17(1) One-year teacher Teacher exchange license.**

*a.* For an applicant applying under ~~13.3(2)~~ 13.5(2), a one-year nonrenewable exchange license may be issued to the applicant under any of the following conditions:

(1) ~~The applicant has completed a state-approved, regionally accredited teacher education program; and The applicant has met the minimum coursework requirements for licensure but has some coursework deficiencies. Any coursework deficiencies must be completed for college credit through a regionally accredited institution, with the exception of human relations which may be taken for licensure renewal credit through an approved provider.~~

(2) ~~The applicant has the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized non-Iowa institution where the preparation was completed; and~~

(3) ~~The applicant holds and submits a copy of a valid or expired certificate or license, exclusive of a temporary, emergency or substitute license or certificate;~~

1. ~~Reserved.~~

2. (2) ~~If the The applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license, a regional exchange license may be issued and the. The lack of a valid and current out-of-state license will be listed as a deficiency; and,~~

(3) The applicant has not met the requirement for recency set forth in 13.5(2) "b"(4).

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~~(4) The applicant must provide verification of successfully passing the Iowa mandated assessment(s) by meeting the minimum score set by the Iowa department of education if the teacher preparation program was completed on or after January 1, 2013. If the teacher preparation program was completed prior to January 1, 2013, the applicant must provide verification of successfully passing the mandated assessment(s) in the state in which the applicant is currently licensed or must provide verification of successfully passing the Iowa mandated assessment(s) by meeting the minimum score set by the Iowa department of education; and~~

~~(5) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed or of the application and the credential evaluation report. The applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license; and~~

~~(6) The applicant is not subject to any pending disciplinary proceedings in any state or country; and~~

~~(7) The applicant complies with all requirements with regard to application processes and payment of licensure fees.~~

~~b. After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.~~

~~**13.17(2) Two-year nontraditional exchange license.** For an applicant applying under 13.3(3) and 13.3(4), a two-year nontraditional teacher exchange license may be issued to the applicant from state approved preparation programs, under the following conditions:~~

~~a. The applicant has met the requirements of 13.3(4) "a" and "b."~~

~~b. The applicant has met the requirements of 13.17(1) "a"(3) through (7).~~

~~c. To convert the two-year nontraditional exchange license, the applicant must meet all deficiencies as well as meet the Iowa teaching standards as determined by a comprehensive evaluation by a licensed evaluator, and the applicant shall have two years of successful teaching experience in Iowa. The evaluator may recommend extending the license for a third year to meet Iowa teaching standards.~~

~~d. The license may be extended to meet the requirements for two years of successful teaching in Iowa with proof of employment.~~

~~**13.17(3) 13.17(2) International teacher exchange license.**~~

~~a. A nonrenewable international exchange license may be issued to an applicant under the following conditions:~~

~~(1) The applicant has completed a teacher education program in another country; and~~

~~(2) The applicant is not subject to any pending disciplinary proceedings in any state or country; and~~

~~(3) The applicant complies with all requirements with regard to application processes and payment of licensure fees; and~~

~~(4) (2) The applicant is a participant in a teacher exchange program administered through the Iowa department of education, the U.S. Department of Education, or the U.S. Department of State.~~

~~b. Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application and the credential evaluation report.~~

~~c. This license shall not exceed ~~three years~~ one year unless the applicant can verify continued participation in the exchange program beyond one year.~~

~~d. After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.~~

~~**13.17(4) 13.17(3) Military exchange license.**~~

~~a. No change.~~

~~b. *Spouses of active duty military service members applying under ~~13.3(2)~~ 13.5(2).* A three-year nonrenewable military exchange license may be issued to the applicant under the following conditions:~~

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

~~c. *Veterans or their spouses applying under ~~13.3(2)~~ 13.5(2).* A ~~five~~ three-year teaching military exchange license ~~or a one-year exchange license~~ may be issued to an applicant who meets the~~

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requirements of 13.17(4)(3)“b”(1) and (2). A veteran must provide a copy of the veteran’s DD 214. A spouse must provide a copy of the veteran spouse’s DD 214 and the couple’s marriage license.

*d. Spouses of active duty military service veterans, or veterans’ spouses applying under 13.3(3) 13.5(2).* If the applicant has completed a nontraditional teacher preparation program but is not eligible for a teaching license, the applicant will be issued a substitute license, and the initial review for the portfolio review process will be completed by board staff. An applicant must provide verification of connection to the military outlined in 13.17(4)(3)“b”(3) or 13.17(4)(3)“c.”

*e.* No change.

*f. Fees.* Fees for the background check, evaluation and license issued pursuant to 13.17(4)(3) will be limited to the fee outlined in rule 282—12.1(272), ~~paragraph “2.”~~ for the issuance of a license.

ITEM 6. Rescind and reserve rules **282—13.18(272)**, **282—13.21(272)** and **282—13.22(272)**.

ITEM 7. Amend rules 282—13.26(272) and 282—13.27(272) as follows:

**282—13.26(272) Requirements for elementary endorsements.**

**13.26(1) Teacher—prekindergarten-kindergarten.**

*a. Authorization.* The holder of this endorsement is authorized to teach at the prekindergarten/-kindergarten level.

*b.—Program requirements.*

- (1) Degree—baccalaureate, and
- (2) Completion of an approved human relations program, and
- (3) Completion of the professional education core. See subrule 13.18(3).

*e. b. Content.*

(1) Human growth and development: infancy and early childhood, unless completed as part of the professional education core. See subrule 13.18(4).

(2) to (8) No change.

**13.26(2) Teacher—prekindergarten through grade three.**

*a. Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three.

*b.—Program requirements.*

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).
- (4) Highly qualified teacher (HQT) status.—Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status.—The board shall determine the test and the minimum passing score for HQT status.—Verification must be provided through one of the following:

1.—Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2.—Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3.—Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4.—Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5.—For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of

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a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

*e. b. Content.*

(1) Child growth and development with emphasis on cognitive, language, physical, social, and emotional development, both typical and atypical, for infants and toddlers, preprimary, and primary school children (grades one through three), unless combined as part of the professional education core. See subrule 13.18(4) of the licensure rules for the professional core.

(2) to (13) No change.

**13.26(3) Teacher—prekindergarten through grade three, including special education.**

*a. Authorization.* The holder of this endorsement is authorized to teach children from birth through grade three.

*b.—Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations program, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status.—Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status.—The board shall determine the test and the minimum passing score for HQT status.—Verification must be provided through one of the following:

1.—Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

2.—Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or

3.—Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or

4.—Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.

5.—For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.

*e. b. Content.*

(1) to (7) No change.

**13.26(4) Teacher—elementary classroom.** These requirements will sunset on August 31, 2015.

*a. Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

*b.—Program requirements.*

(1) Degree—baccalaureate, and

(2) Completion of an approved human relations component, and

(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

(4) Highly qualified teacher (HQT) status.—Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status.—The board shall determine the test and the minimum passing score for HQT status.—Verification must be provided through one of the following:

1.—Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~2.—Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or~~

~~3.—Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or~~

~~4.—Obtaining the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants from outside the United States.~~

~~5.—For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment of the federal highly qualified teacher legislation (June 2006). This option may also be utilized by applicants who have been teaching outside the United States.~~

~~*e. b. Content.*~~

~~(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See subrule 13.18(4).~~

~~(2) to (11) No change.~~

**13.26(5) Teacher—elementary classroom.** Effective September 1, 2015, the following requirements apply to persons who wish to teach in the elementary classroom:

*a. Authorization.* The holder of this endorsement is authorized to teach in kindergarten and grades one through six.

~~*b.—Program requirements:*~~

~~(1) Degree—baccalaureate, and~~

~~(2) Completion of an approved human relations component, and~~

~~(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).~~

~~(4) Highly qualified teacher (HQT) status.—Applicants from non-Iowa institutions who have completed the requirements for this endorsement must verify their HQT status.—The board shall determine the test and the minimum passing score for HQT status.—Verification must be provided through one of the following:~~

~~1.—Written verification from the department of education in the state in which the applicant completed the elementary teacher preparation program that the applicant has achieved HQT status in that state; or~~

~~2.—Written verification from the department of education in the state where the applicant is currently teaching that the applicant has achieved HQT status in that state; or~~

~~3.—Submission of the official test score report indicating the applicant has met the qualifying score for licensure in the state in which the applicant completed the elementary teacher preparation program; or~~

~~4.—Verification that the applicant has obtained the qualifying score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment in June 2006 of the federal highly qualified teacher provisions of the Individuals with Disabilities Education Act (IDEA). This option may also be utilized by applicants from outside the United States.~~

~~5.—For applicants who have completed the requirements for one of the Iowa elementary endorsements, verification of HQT status by meeting the minimum score set by the Iowa board of educational examiners if the applicant has not been teaching within the last five years and completion of a teacher preparation program prior to enactment in June 2006 of the federal highly qualified teacher provisions of IDEA. This option may also be utilized by applicants who have been teaching outside the United States.~~

~~*e. b. Content.*~~

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(1) Child growth and development with emphasis on the emotional, physical and mental characteristics of elementary age children, unless completed as part of the professional education core. See ~~subrule 13.18(4)~~.

(2) to (8) No change.

**282—13.27(272) Requirements for middle school endorsements.**

**13.27(1) Authorization.** The holder of this endorsement is authorized to teach in the two concentration areas in which the specific requirements have been completed as well as in other subject areas in grades five through eight which are not the core content areas. The holder is not authorized to teach art, industrial arts, music, reading, physical education, talented and gifted, English as a second language, and special education.

**13.27(2) Program requirements.**

a. Be the holder of a currently valid Iowa teacher's license with either the general elementary endorsement or one of the subject matter secondary level endorsements set out in rule 282—13.28(272) ~~or 282—subrules 17.1(1) and 17.1(3)~~.

b. A minimum of 9 semester hours of required coursework in the following:

(1) Coursework in the growth and development of the middle school age child, specifically addressing the social, emotional, physical and cognitive characteristics and needs of middle school age children in addition to related studies completed as part of the professional education core ~~in subrule 13.18(4)~~.

(2) Coursework in middle school design, curriculum, instruction, and assessment including, but not limited to, interdisciplinary instruction, teaming, and differentiated instruction in addition to related studies completed as part of the professional education core ~~in subrule 13.18(4)~~.

(3) No change.

c. No change.

**13.27(3)** No change.

ITEM 8. Amend subrules 13.28(3), 13.28(20) to 13.28(25) and 13.28(28) as follows:

**13.28(3) Business—all. 5-12.** Completion of 30 semester hours in business to include 6 semester hours in accounting, 3 semester hours in business law to include contract law, 3 semester hours in computer and technical applications in business, 6 semester hours in marketing to include consumer studies, 3 semester hours in management, 6 semester hours in economics, and 3 semester hours in business communications to include formatting, language usage, and oral presentation. Coursework in entrepreneurship and in financial literacy may be a part of, or in addition to, the coursework listed above. ~~Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach marketing without completing the endorsement requirements must complete the endorsement requirements by July 1, 2010, in order to teach or continue to teach marketing. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching marketing.~~

**13.28(20) English as a second language (ESL). K-12.**

a. *Authorization.* The holder of this endorsement is authorized to teach English as a second language in kindergarten and grades one through twelve.

b. ~~*Program requirements.*~~

(1) ~~Degree—baccalaureate, and~~

(2) ~~Completion of an approved human relations program, and~~

(3) ~~Completion of the professional education core. See subrules 13.18(3) and 13.18(4).~~

~~e. *b. Content.* Completion of 18 semester hours of coursework in English as a second language to include the following:~~

(1) to (4) No change.

~~d. *Other.* Individuals who were licensed in Iowa prior to October 1, 1988, and were allowed to teach English as a second language without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach English as a second language. A waiver provision is available through the board of educational examiners for individuals who have been successfully teaching English as a second language.~~

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**13.28(21) Elementary school teacher librarian.**

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in kindergarten and grades one ~~prekindergarten~~ through grade eight.

*b. Program requirements.*

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

*c. Content prior to September 1, 2012.* The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Knowledge of materials and literature in all formats for elementary children.
- (2) Selection, utilization and evaluation of library resources and equipment.
- (3) Design and production of instructional materials.
- (4) Acquisition, cataloging and classification of library materials.
- (5) Information literacy, reference services and networking.
- (6) Planning, evaluation and administration of school library programs.
- (7) Practicum in an elementary school media center/library.

*d. b. Content—effective on and after September 1, 2012.* The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) to (4) No change.

**13.28(22) Secondary school teacher librarian.**

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in grades five through twelve.

*b. Program requirements.*

- (1) Degree—baccalaureate.
- (2) Completion of an approved human relations program.
- (3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).

*c. Content prior to September 1, 2012.* The following requirements apply for endorsements issued prior to September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) Knowledge of materials and literature in all formats for adolescents.
- (2) Selection, utilization and evaluation of library resources and equipment.
- (3) Design and production of instructional materials.
- (4) Acquisition, cataloging and classification of library materials.
- (5) Information literacy, reference services and networking.
- (6) Planning, evaluation and administration of school library programs.
- (7) Practicum in a secondary school media center/library.

*d. b. Content—effective on and after September 1, 2012.* The following requirements apply for endorsements issued on and after September 1, 2012. Completion of 24 semester hours in school library coursework to include the following:

- (1) to (4) No change.

**13.28(23) School teacher librarian. PK-12.**

*a. Authorization.* The holder of this endorsement is authorized to serve as a teacher librarian in prekindergarten through grade twelve. The applicant must be the holder of or eligible for the initial license.

*b. Program requirements.* Degree—master's.

*c. Content prior to September 1, 2012.* The following requirements apply for endorsements issued prior to September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:

- (1) Planning, evaluation and administration of school library programs.

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- ~~(2) Curriculum development and teaching and learning strategies.~~
- ~~(3) Instructional development and communication theory.~~
- ~~(4) Selection, evaluation and utilization of library resources and equipment.~~
- ~~(5) Acquisition, cataloging and classification of library materials.~~
- ~~(6) Design and production of instructional materials.~~
- ~~(7) Methods for instruction and integration of information literacy skills into the school curriculum.~~
- ~~(8) Information literacy, reference services and networking.~~
- ~~(9) Knowledge of materials and literature in all formats for elementary children and adolescents.~~
- ~~(10) Reading, listening and viewing guidance.~~
- ~~(11) Utilization and application of computer technology.~~
- ~~(12) Practicum at both the elementary and secondary levels.~~
- ~~(13) Research in library and information science.~~

~~d. c. Content—effective on and after September 1, 2012. The following requirements apply for endorsements issued on and after September 1, 2012. Completion of a sequence of courses and experiences which may have been part of, or in addition to, the degree requirements. This sequence is to be at least 30 semester hours in school library coursework, to include the following:~~

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

~~13.28(24) Talented and gifted teacher.~~

~~a. and b. No change.~~

~~e.—Other. Individuals who were licensed in Iowa prior to August 31, 1995, and were allowed to teach talented and gifted classes without completing the endorsement requirements must complete the endorsement requirements by July 1, 2012, in order to teach or continue to teach talented and gifted classes. A waiver provision is provided through the board of educational examiners for individuals who have been successfully teaching students who are talented and gifted.~~

~~13.28(25) American Sign Language endorsement.~~

~~a. Authorization. The holder of this endorsement is authorized to teach American Sign Language in kindergarten and grades one through twelve.~~

~~b.—Program requirements.~~

~~(1) Degree—baccalaureate.~~

~~(2) Completion of an approved human relations program.~~

~~(3) Completion of the professional education core.~~

~~e. b. Content. Completion of 18 semester hours of coursework in American Sign Language to include the following:~~

~~(1) to (6) No change.~~

~~d. c. Other. Be the holder of or be eligible for one other teaching endorsement listed in rules 282—13.26(272) and 282—13.27(272) and this rule.~~

~~13.28(28) School nurse endorsement. The school nurse endorsement does not authorize general classroom teaching, although it does authorize the holder to teach health at all grade levels. Alternatively, a nurse may obtain a statement of professional recognition (SPR) from the board of educational examiners, in accordance with the provisions set out in 282—Chapter 16, Statements of Professional Recognition (SPR).~~

~~a. Authorization. The holder of this endorsement is authorized to provide service as a school nurse at the prekindergarten and kindergarten levels and in grades one through twelve.~~

~~b.—Program requirements.~~

~~(1) Degree—baccalaureate, and~~

~~(2) Completion of an approved human relations program, and~~

~~(3) Completion of the professional education core. See subrules 13.18(3) and 13.18(4).~~

~~e. b. Content.~~

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

~~d. c. Other. Hold a license as a registered nurse issued by the Iowa board of nursing.~~

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ITEM 9. Amend subrule 13.29(1) as follows:

**13.29(1) Adding an endorsement.** After the issuance of a teaching license, an individual may add other endorsements to that license upon proper application, provided current requirements for that endorsement have been met. An updated license with expiration date unchanged from the original or renewed license will be prepared.

*a. Options.* To add an endorsement, the applicant must follow one of these options:

(1) Option 1. Receive the Iowa teacher education institution's recommendation that the current approved program requirements for the endorsement have been met.

(2) Option 2. Receive verification from the Iowa teacher education institution that the minimum state requirements for the endorsement have been met in lieu of the institution's approved program.

(3) Option 3. ~~Receive verification from a state-approved and regionally accredited institution that the Iowa minimum requirements for the endorsement have been met.~~

(4) ~~Option 4.~~ Apply for a review of the transcripts by the board of educational examiners' staff to determine if all Iowa requirements have been met. The applicant must submit documentation that all of the Iowa requirements have been met by filing transcripts and supporting documentation for review. The fee for the transcript evaluation is in 282—Chapter 12. This fee shall be in addition to the fee for adding the endorsement.

*b. Additional requirements for adding an endorsement.*

(1) In addition to meeting the requirements ~~listed in rules 282—13.18(272) and 282—13.28(272) for Iowa licensure~~, applicants for endorsements shall have completed a methods class appropriate for teaching the general subject area of the endorsement added.

(2) to (4) No change.

ITEM 10. Amend rule 282—14.2(272) as follows:

**282—14.2(272) Specific requirements.** For each of the following teaching endorsements in special education, the applicant must have completed 24 semester hours in special education.

**14.2(1)** No change.

**14.2(2) Instructional strategist I: mild and moderate.**

*a.* No change.

*b. Option 2—K-8 mild and moderate.* To obtain this endorsement, the applicant must hold a valid Iowa license with either a K-8 or 5-12 special education instructional endorsement and must meet the following basic requirements in addition to those set out in paragraph 14.2(2) "a."

(1) Child growth and development with emphasis on the emotional, physical, and mental characteristics of elementary age children, unless completed as part of the professional education core. ~~See rule 282—13.18(272).~~

(2) to (5) No change.

*c.* No change.

*d. Option 2—5-12 mild and moderate.* To obtain this endorsement, the applicant must hold a valid Iowa license with either a K-8 or 5-12 special education instructional endorsement and must meet the following basic requirements in addition to those set out in paragraph 14.2(2) "c."

(1) Adolescent growth and development with emphasis on the emotional, physical, and mental characteristics of adolescent age children, unless completed as part of the professional education core. ~~See rule 282—13.18(272).~~

(2) to (4) No change.

(5) Secondary methods unless completed as part of the professional education core. ~~See 282—paragraph 13.18(4) "l."~~

**14.2(3) to 14.2(7)** No change.

**14.2(8) Deaf or hard of hearing endorsement.**

*a.* No change.

*b. Option 2.* An applicant who holds an endorsement in deaf or hard of hearing issued in another state or who is eligible for such an endorsement but who does not also hold or is not eligible for a regular

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education endorsement in Iowa (see 282—Chapter 13) must meet the following basic requirements in addition to those set out in paragraph 14.2(8)“a.”

(1) Child growth and development with emphasis on the emotional, physical, and mental characteristics of elementary age children unless completed as part of the professional education core. See 282—Chapter 13.

(2) to (5) No change.

(6) Adolescent growth and development with emphasis on the emotional, physical, and mental characteristics of adolescent age children unless completed as part of the professional education core. See 282—subrule 13.18(4).

(7) No change.

(8) Secondary methods unless completed as part of the professional education core. See 282—paragraph 13.18(4)“l.”

**14.2(9) Visually disabled endorsement.**

a. No change.

b. *Option 2.* An applicant who holds an endorsement for visually disabled issued in another state or who is eligible for such an endorsement but who does not also hold or is not eligible for a regular education endorsement in Iowa (see 282—Chapter 13) must meet the following basic requirements in addition to those set out in paragraph 14.2(9)“a.”

(1) Child growth and development with emphasis on the emotional, physical, and mental characteristics of elementary age children unless completed as part of the professional education core. See 282—Chapter 13.

(2) to (5) No change.

(6) Adolescent growth and development with emphasis on the emotional, physical, and mental characteristics of adolescent age children unless completed as part of the professional education core. See 282—subrule 13.18(4).

(7) No change.

(8) Secondary methods unless completed as part of the professional education core. See 282—paragraph 13.18(4)“l.”

**14.2(10) and 14.2(11) No change.**

ITEM 11. Rescind and reserve rule **282—18.2(272)**.

ITEM 12. Amend rule 282—18.4(272) as follows:

**282—18.4(272) General requirements for an administrator license.**

**18.4(1) Eligibility for applicants who have completed a teacher preparation program.** Applicants for the administrator license must first comply with the requirements for all Iowa practitioners set out in 282—Chapter 13. Additionally, the requirements of rules 282—13.2(272) and 282—13.3(272) and the license-specific requirements set forth under each license must be met before an applicant is eligible for an administrator license.

**18.4(2) Specific requirements for an initial administrator license for applicants who have completed a teacher preparation program.** An initial administrator license valid for one year may be issued to an applicant who:

a. ~~Is the holder of or is eligible for a standard license; and~~

b. ~~Has three years of teaching experience; and~~

c. a. Has completed a state-approved PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)); and

d. ~~Has completed an approved human relations component; and~~

e. ~~Has completed an exceptional learner component; and~~

f. b. Has completed an evaluator approval program; and

c. Provides a recommendation for the specific license and administrator endorsement(s) from the designated recommending official at the recognized institution where the preparation was completed; and

and

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- d. Has met the experience requirement set forth for the desired administrator endorsement; and
- e. Is not subject to any pending disciplinary proceedings in any state; and
- f. Complies with all requirements with regard to application processes and payment of licensure fees.

**18.4(3)** No change.

**18.4(4)** *Specific requirements for an initial administrator license for applicants who have completed a professional service endorsement.* An initial administrator license valid for one year may be issued to an applicant who:

- a. Is the holder of an Iowa professional service license; and
- b. Has three years of experience in an educational setting in the professional service endorsement area; and
- c. Has completed a state-approved PK-12 principal and PK-12 supervisor of special education program (see subrule 18.9(1)); and
- d. Is assuming a position as a PK-12 principal and PK-12 supervisor of special education (see subrule 18.9(1)) for the first time or has one year of out-of-state or nonpublic administrative experience; and
- e. Has completed an approved the required coursework in human relations component, cultural competency, diverse learners and reading instruction set forth in 281—subrules 79.15(2) and 79.15(3); and
- ~~f. Has completed an exceptional learner component; and~~
- ~~g. f. Has completed the professional education core in 282—paragraphs 13.18(4)“a” through “j” 281—paragraphs 79.15(5)“b” to “k”;~~ and
- ~~h. g. Has completed an evaluator approval program.~~

ITEM 13. Amend rules 282—18.6(272) and 282—18.7(272) as follows:

**282—18.6(272) Specific requirements for an administrator prepared out of state.** An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through traditional course-based preparation program and transcript review. A recognized non-Iowa administrator preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located. Applicants must hold and submit a copy of a valid or expired regular administrator certificate or license in the state in which the preparation was completed, exclusive of a temporary, emergency or substitute license or certificate.

**18.6(1) ~~Specific requirements.~~ Administrator exchange license.** A one-year nonrenewable administrator exchange license may be issued to an individual who ~~completes the requirements in paragraphs 18.4(2)“a” through “f” and satisfies the following:~~ has not met any of the following requirements:

- ~~a. Has completed a state-approved, regionally accredited administrator preparation program in a college or university approved by the state board of education or the state licensing agency in the individual’s preparation state; and~~
- ~~b. Has the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized non-Iowa institution where the preparation was completed; and~~
- ~~c. Holds and submits a copy of a valid regular administrator certificate or license in the state in which the preparation was completed, exclusive of a temporary, emergency or substitute license or certificate; and~~
- ~~d. Meets the experience requirements for the administrator endorsement(s). Verified successful completion of three years of full-time teaching experience in other states, on a valid license, shall be considered equivalent experience necessary for the principal endorsement. Verified successful completion of six years of full-time teaching and administrative experience in other states, on a valid license, shall be considered equivalent experience for the superintendent endorsement provided that at least three years were as a teacher and at least three years were as a building principal or other PK-12 districtwide administrator; and~~

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

~~e.—Is not subject to any pending disciplinary proceedings in any state; and  
f.—Complies with all requirements with regard to application processes and payment of licensure fees.~~

~~a. Professional core requirements. The applicant has not completed all of the required courses in the professional core in 281—subrules 79.15(2) and 79.15(3) and 281—paragraphs 79.15(5) “b” to “k.”~~

~~b. Endorsement requirements. The applicant has not completed a minimum of 75 percent of the coursework for the PK-12 principal and PK-12 supervisor of special education endorsement, and any additional administrator endorsements desired.~~

~~c. Regular administrator certificate or license in the state in which the preparation was completed. The applicant is eligible for and has applied for a regular administrator certificate or license in the state in which the preparation was completed but has not yet received the certificate or license.~~

~~d. Approved evaluator training requirement. The applicant has not completed the approved evaluator training requirement.~~

~~18.6(2) Rescinded IAB 2/23/11, effective 3/30/11.~~

~~18.6(3) Rescinded IAB 2/23/11, effective 3/30/11.~~

~~18.6(2) Conversion. Each applicant who receives the one-year administrator exchange license must complete any identified licensure deficiencies in order to be eligible for an initial administrator license or a professional administrator license in Iowa. Any coursework deficiencies must be completed for college credit through a regionally accredited institution, with the exception of the human relations component which may be taken for licensure renewal credit through an approved provider.~~

#### **282—18.7(272) Specific requirements for a Class A extension license.**

~~18.7(1) A nonrenewable Class A administrator exchange license valid for one year may be issued to an applicant who has completed an administrator preparation program under any one of the following conditions:~~

~~a.—Professional core requirements. The individual has not completed all of the required courses in the professional core, 282—paragraphs 13.18(4) “a” through “j.”~~

~~b.—Human relations component. The individual has not completed an approved human relations component.~~

~~c.—Regular administrator certificate or license in the state in which the preparation was completed. The individual has applied for a regular administrator certificate or license in the state in which the preparation was completed but has not yet received the certificate or license.~~

~~d.—Based on evaluator requirement. The applicant has not completed the approved evaluator training requirement.~~

~~18.7(2) 18.7(1) A nonrenewable Class A extension license valid for one year may be issued to an applicant based on an expired Iowa professional administrator license.~~

~~a. The holder of an expired professional administrator license shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.~~

~~b. 18.7(2) Renewal. The holder of an expired professional administrator license who is currently under contract with an Iowa educational unit (area education agency/local education agency/local school district) and who does not meet the renewal requirements for the administrator license held shall be required to secure the signature of the superintendent or designee before the Class A extension license will be issued. If the superintendent does not meet the renewal requirements, the superintendent shall be required to secure the signature of the school board president before the license will be issued.~~

~~18.7(3) Authorization. Each Class A license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrator license was completed.~~

~~18.7(4) Conversion. Each applicant receiving the one-year Class A license must complete any identified licensure deficiencies in order to be eligible for an initial administrator license or a professional administrator license in Iowa.~~

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ITEM 14. Amend paragraph **18.9(1)“c”** as follows:

*c. Other.*

(1) The applicant must have had three years of teaching experience at the early childhood through grade twelve level while holding a valid license.

(2) No change.

ITEM 15. Amend subrules 18.9(2) and 18.9(3) as follows:

**18.9(2) PK-8 principal—out-of-state applicants.** This endorsement is only for applicants from out-of-state institutions.

*a. and b.* No change.

*c. Other.* The applicant must have had three years of teaching experience at the early childhood through grade eight level while holding a valid license.

**18.9(3) 5-12 principal—out-of-state applicants.** This endorsement is only for applicants from out-of-state institutions.

*a. and b.* No change.

*c. Other.* The applicant must have had three years of teaching experience at the secondary level (5-12) while holding a valid license.

ITEM 16. Amend subrule 18.10(3) as follows:

**18.10(3) Administrative experience.** The applicant must meet one of the following:

*a.* The applicant must have had three years of experience as a building principal while holding a valid license.

*b.* No change.

*c.* The applicant must have six years of teaching and administrative experience, provided that at least two years are teaching experience and one year is administrative experience, all while holding a valid license.

ITEM 17. Amend rule 282—18.12(272) as follows:

**282—18.12(272) Specific requirements for a Class E emergency license.** A nonrenewable Class E emergency license valid for one year may be issued to an individual as follows.

**18.12(1) and 18.12(2)** No change.

ITEM 18. Rescind and reserve rule **282—19.6(272).**

ITEM 19. Amend rules 282—27.1(272) and 282—27.2(272) as follows:

**282—27.1(272) Professional service license.** A professional service licensee is an individual prepared to provide professional services in Iowa schools but whose preparation has not required completion of the professional education core as described in 282—subrule 13.18(4) teacher preparation coursework set forth in rule 281—79.15(256). The professional service license may be issued in the following areas:

1. School counselor.
2. School psychologist.
3. Speech-language pathologist.
4. Supervisor of special education (support).
5. Director of special education of an area education agency.
6. School social worker.
7. School audiologist.

**282—27.2(272) Requirements for a professional service license.**

**27.2(1) Initial professional service license.** An initial professional service license valid for two years may be issued to an applicant for licensure to serve as a school audiologist, school psychologist, school social worker, speech-language pathologist, supervisor of special education (support), director of special education of an area education agency, or school counselor who:

*a. to c.* No change.

*d.* Meets the recency requirement of 282—subrule 13.10(3) subparagraph 13.5(2)“b”(4).

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

**27.2(2) Standard professional service license.** A standard professional service license valid for five years may be issued to an applicant who:

*a.* and *b.* No change.

*c.* Meets the recency requirement of 282—~~subrule 13.10(3)~~ subparagraph 13.5(2)“b”(4).

**27.2(3)** No change.

ITEM 20. Amend subrules 27.3(1) and 27.3(2) as follows:

**27.3(1) Elementary professional school counselor.**

*a. Authorization.* The holder of this endorsement has not completed the ~~professional education core (282—subrule 13.18(4))~~ teacher preparation coursework set forth in rule 281—79.15(256) but is authorized to serve as a professional school counselor in kindergarten and grades one through eight.

*b.* and *c.* No change.

**27.3(2) Secondary professional school counselor.**

*a. Authorization.* The holder of this endorsement has not completed the ~~professional education core (282—subrule 13.18(4))~~ teacher preparation coursework set forth in rule 281—79.15(256) but is authorized to serve as a professional school counselor in grades five through twelve.

*b.* and *c.* No change.

**ARC 1917C**

**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,” rescind Chapter 17, “Career and Technical Endorsements and Licenses,” and amend Chapter 22, “Authorizations,” Iowa Administrative Code.

The proposed amendments to the Board’s rules regarding career and technical licensure would change the title from “license” to “authorization” in order to create a clear distinction between fully licensed teachers and those seeking authority to teach through experience. The amendments would require that an applicant for the career and technical authorization have a job offer prior to obtaining the authorization. Additionally, the proposed amendments clarify the meaning of “recent” experience, update the list of required coursework for career and technical applicants, and eliminate redundant endorsements for teachers.

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, April 10, 2015. 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 50319-0147, or sent by e-mail to [kim.cunningham@iowa.gov](mailto: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, April 8, 2015, 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, at the above address, or at (515)281-5849, prior to the date of the public hearing.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

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 are subject to waiver pursuant to 282—Chapter 6.

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

These amendments are intended to implement Iowa Code section 272.2(1)“a.”

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 13.28(33):

**13.28(33) Multioccupations.** Completion of any 5-12 endorsement and, in addition thereto, coursework in foundations of career and technical education, coordination of cooperative programs, and competency-based curriculum development. Four thousand hours of career and technical experience in two or more occupations. The multioccupations endorsement also authorizes the holder to supervise students in cooperative programs, school-to-work programs, and similar programs in which the student is placed in school-sponsored, on-the-job situations.

ITEM 2. Rescind and reserve **282—Chapter 17**.

ITEM 3. Adopt the following **new** rule 282—22.9(272):

**282—22.9(272) Requirements for the career and technical secondary authorization.**

**22.9(1) Authorization.** This authorization is provided to noneducators entering the education profession to instruct in occupations and specialty fields that are recognized in career and technical service areas and career cluster areas.

**22.9(2) Application process.** Any person interested in the career and technical secondary authorization shall submit the application to the board of educational examiners for an evaluation. Application materials are available from the office of the board of educational examiners online at <http://www.boee.iowa.gov/>.

**22.9(3) Specific requirements for the initial career and technical secondary authorization.**

*a.* The applicant must meet the background check requirements for licensure set forth in rule 282—13.1(272).

*b.* The applicant must obtain a recommendation from a school district administrator verifying that the school district wishes to hire the applicant.

*c.* An applicant for this authorization must have completed 6,000 hours of recent and relevant career and technical experience in the teaching endorsement area sought. If the candidate also holds a bachelor’s degree, the experience requirement is 4,000 hours. This experience shall have been accrued within the ten years prior to the date of application. Experience that does not meet these criteria may be considered at the discretion of the executive director. In subjects for which state registration, certification or licensure is required, the applicant must hold the appropriate license, registration or certificate before the initial career and technical secondary authorization or the career and technical secondary authorization will be issued.

*d.* The applicant must provide documentation of completion of a code of professional conduct and ethics training approved by the board of educational examiners.

*e.* Coursework requirements.

(1) Applicants must commit to complete the following requirements within the term of the initial authorization. Coursework must be completed for college credit from a regionally accredited institution.

1. A new teachers’ workshop of a minimum of 30 clock hours and specified competencies, to be completed during the term of the initial authorization.

2. Coursework in the methods and techniques of career and technical education.

3. Coursework in course and curriculum development.

4. Coursework in the measurement and evaluation of programs and students.

5. An approved human relations course.

6. Coursework in the instruction of exceptional learners to include the education of individuals with disabilities and the gifted and talented.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

(2) Applicants who believe that their previous college coursework meets the coursework requirements in 22.9(3)“e”(1) may have the specific requirements waived. Transcripts or other supporting data should be provided to a teacher educator at one of the institutions which has an approved teacher education program. The results of the competency determination shall be forwarded with recommendations to the board of educational examiners. Board personnel will make final determination as to the competencies mastered and cite coursework which yet needs to be completed, if any.

**22.9(4) *Validity—initial authorization.*** The initial career and technical secondary authorization is valid for three years.

**22.9(5) *Renewal.*** The initial career and technical secondary authorization may be renewed once if the candidate can demonstrate that coursework progress has been made.

**22.9(6) *Conversion.*** The initial career and technical secondary authorization may be converted to a career and technical secondary authorization if the applicant has met the following:

- a. Completion of the required coursework set forth in paragraph 22.9(3)“e.”
- b. Documentation of completion of a code of professional conduct and ethics training approved by the board of educational examiners. The training must be completed after the issuance of the initial authorization and no more than three years prior to the date of application.

**22.9(7) *Specific requirements for the career and technical secondary authorization.***

- a. This authorization is valid for five years.
- b. An applicant for this authorization must first meet the requirements for the initial career and technical secondary authorization.
- c. Renewal requirements for the career and technical secondary authorization. Applicants for renewal must meet the requirements set forth in 282—subrule 20.5(1) and 282—paragraphs 20.5(2)“a” to “d.”

**22.9(8) *Revocation and suspension.*** Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the initial career and technical secondary authorization or the career and technical secondary authorization. If a school district hires an applicant without a valid license or authorization, a complaint may be filed against the teacher and the superintendent of the school district.

**ARC 1920C****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 23, “Behind-the-Wheel Driving Instructor Authorization,” Iowa Administrative Code.

The proposed amendment allows holders of the driver’s education endorsement to maintain a behind-the-wheel authorization with classroom instruction authority. This amendment would be particularly beneficial to the holders of initial teaching licenses who teach driver’s education in the summer only, since this summer employment does not meet the experience requirement to move to a standard license, and since they do not have an unlimited number of renewals on their initial licenses. This amendment would also benefit holders of expired licenses who want to continue to teach driver’s education and maintain this authorization annually with relevant renewal training.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, April 10, 2015. Written comments and suggestions should be addressed to Kim

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Cunningham, Board Secretary, Board of Educational Examiners, at the address listed below, or sent by e-mail to [kim.cunningham@iowa.gov](mailto: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, April 8, 2015, 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 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 subject to waiver pursuant to 282—Chapter 6.

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

This amendment is intended to implement Iowa Code section 272.2(1)“a.”

The following amendment is proposed.

Amend rule 282—23.1(272,321) as follows:

**282—23.1(272,321) Requirements.** Applicants for the behind-the-wheel driving instructor authorization shall meet the following requirements:

**23.1(1) and 23.1(2)** No change.

**23.1(3) Classroom instruction.** To be eligible to provide classroom instruction, holders of the behind-the-wheel driving instructor authorization must additionally hold a valid or expired initial, standard, exchange, or master educator license with endorsement for driver education as set forth in 282—subrule 13.28(4).

**ARC 1914C****ENVIRONMENTAL PROTECTION COMMISSION[567]****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 455B.105, 455B.173 and 455B.263, the Environmental Protection Commission hereby proposes to amend Chapter 50, “Scope of Division—Definitions—Forms—Rules of Practice,” Chapter 52, “Criteria and Conditions for Authorizing Withdrawal, Diversion and Storage of Water,” and Chapter 53, “Protected Water Sources—Purposes—Designation Procedures—Information in Withdrawal Applications—Limitations—List of Protected Resources,” Iowa Administrative Code.

The proposed amendments will revise the rules governing the use of the Cambrian-Ordovician Aquifer (commonly called the Jordan Aquifer) in Iowa. The Jordan Aquifer extends underneath much of Iowa and is a significant well water source in the state. Protection from overuse of the resource (also known as dewatering the aquifer) is needed in some parts of the state. The proposed amendments are a result of the recommendations made to the Commission by the Executive Order 80 (EO80) Stakeholder Group that was tasked with evaluating the current rules to better manage the usage of the Jordan Aquifer. At its November 19, 2014, meeting, the Commission directed the EO80 Stakeholder

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Group and the Department to develop rules for those recommendations that required rule changes. The Commission has now approved those rule recommendations.

The EO80 Stakeholder Group developed a tiered classification system for existing and future Jordan wells that are required to be permitted under the state's water allocation rules, so that the resource will have a sustainable use into the future. A water allocation permit must be obtained by anyone withdrawing at least 25,000 gallons in a single day during the year. A permit holder withdrawing more water than the aquifer can sustain at that well location will be required to develop a water use reduction plan and implement measures so that the aquifer can recover to a sustainable level. Other proposed amendments require activities that result in closer oversight of the aquifer.

The EO80 Stakeholder Group met five times in 2014, and its recommendations were presented to the Commission on June 17, 2014, and on November 19, 2014. A sixth meeting was held in December 2014 with Department staff to finalize the proposed amendments. The following amendments are proposed:

1. In Chapter 50, the definition of "aquifer" is amended, and definitions of "confined aquifer" and "water use reduction plan" are added.

2. In Chapter 52, the current subrule pertaining to the withdrawal of water from the Cambrian-Ordovician (Jordan) Aquifer is rescinded and replaced with a new subrule that:

- Adds tiering criteria to classify each Jordan well requiring a water allocation permit into one of three tiers, depending upon the pumping water levels as compared to the 1978 Horick and Steinhilber potentiometric surface and the top of the Jordan aquifer at that location. Permittees whose wells are in the Tier 1 category shall follow standard water use reporting procedures with no additional requirements. Permittees with Tier 2 and Tier 3 category wells have the additional requirements of site-specific water use reduction plans. The new subrule also includes the actions the Department may take if water levels continue to decline beyond the Tier 3 level.

- Changes the permit cycle for Jordan water allocation permits from ten years to five years.

- For new Jordan wells, requires that a water allocation permit be obtained before a water well construction permit is issued (to ensure adequate water allocation before the expense of the well construction is incurred).

- Retains the current 200-gallons-per-minute restriction on irrigation, recreational, and aesthetic uses.

- Retains the 2,000-gallons-per-minute restriction on industrial and power generation uses.

- Replaces the measurement level of piezometric head with the pumping level.

- Prohibits once-through cooling or geothermal use, with an allowance for geothermal use only if all of the withdrawn water is injected back into the aquifer.

A new paragraph 52.9(3)"d" pertaining to water conservation and water use reduction planning is also added to Chapter 52.

3. In Chapter 53, two areas, one in Johnson and Linn Counties and one in Webster County, are added to the protected-source rule, and a requirement that only the Department issue the well construction permits inside of those defined areas is included.

The EO80 Stakeholder Group included the following people:

<b>Name</b>	<b>Organization</b>	<b>Representing</b>
John Crotty	Iowa Environmental Council	Environmental advocacy group
Shawn Kerrick	Koch Nitrogen	Industrial user from business located in affected area
Gale McIntosh	Northway Pump	Water well contractor
Jill Soenen	Iowa Association of Municipal Utilities	Municipal utility association
Todd Steigerwaldt	City of Marion (Water Works)	Municipal user in affected area
Becky Svatos	Stanley Consultants, Iowa Association of Business and Industry	Professional consulting engineering firm, business association
Nancy Couser	Environmental Protection Commission	State agency

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Any interested person may present written comments on the proposed amendments no later than 4:30 p.m. on April 14, 2015. Written comments should be sent to Diane Moles, Iowa Department of Natural Resources, WSE Section, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)725-0348; or by e-mail, including the commenter's name, to [diane.moles@dnr.iowa.gov](mailto:diane.moles@dnr.iowa.gov).

Public hearings will be held at three locations:

April 8, 2015	1 p.m.	Coralville Public Library Meeting Room A 1405 5th Street Coralville (Please park in the lower level lot and not in the two rows adjacent to the library entrance.)
April 9, 2015	11 a.m.	Wallace State Office Building Water Supply Section Conference Room 2N 502 E. 9th Street Des Moines
April 10, 2015	11 a.m.	Fort Dodge Public Library Meeting Room (Large) 424 Central Avenue Fort Dodge

Persons attending a public hearing may present their views either orally or in writing. Persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments.

Any person who intends to attend a public hearing and has special requirements, such as those related to hearing or mobility impairments, should contact the Department to advise of any specific needs.

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.105, 455B.171, 455B.173, 455B.261 to 455B.274 and 455B.278.

The following amendments are proposed.

ITEM 1. Amend rule **567—50.2(455B)**, definition of “Aquifer,” as follows:

*“Aquifer”* means a water-bearing geologic formation (soil or rock) of sufficient volume, porosity, and permeability to be capable of yielding a usable quantity of water to a well or spring.

ITEM 2. Adopt the following **new** definitions of “Confined aquifer” and “Water use reduction plan” in rule **567—50.2(455B)**:

*“Confined aquifer”* means an aquifer which contains water under pressure overlain by impermeable formations such as clay or shale. In a well penetrating a confined aquifer, pressure will cause water to rise above the top of the aquifer. If the pressure in a confined aquifer is sufficiently great, water will rise above the ground surface and flow from a well, thus resulting in a “flowing artesian well” or a “naturally flowing well.”

*“Water use reduction plan”* means a program that establishes numeric water reduction goals (e.g., percent or volume of water per day) on a short-term time frame through either voluntary or mandatory conservation regulatory requirements (e.g., plumbing codes, sprinkling ordinances, et al.) for each customer category (residential, commercial, industrial, landscape irrigation, agricultural, recreational, or other). Such a plan shall include a mechanism (water audit or the equivalent) for evaluating the system's unaccounted-for water. An industrial permittee water use reduction plan shall examine reduction of the use of water in heat transfer, use of water in materials transfer, use of water for washing, and use of water as an incorporated ingredient.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 3. Rescind subrule 52.4(3) and adopt the following **new** subrule in lieu thereof:

**52.4(3) Withdrawals from the Cambrian-Ordovician (Jordan) aquifer.** Withdrawals of water from the Cambrian-Ordovician (Jordan) aquifer, including the St. Peter sandstone formation, the Prairie du Chien group and the Jordan sandstone formation, shall be subject to the following conditions:

a. *Two-hundred-gallon-per-minute restriction on irrigation, recreational, or aesthetic uses.* New withdrawals of water for irrigation, recreational, or aesthetic uses shall not be in excess of 200 gallons per minute. Existing permits for irrigation, recreational and aesthetic uses that authorize withdrawal rates in excess of 200 gallons per minute may be modified or rescinded by the department if, as determined by the department, any well in the vicinity experiences loss of water due to pumping or if the pumping water level is reduced to or below the levels described in paragraphs “f” and “g” of this subrule.

b. *Two-thousand-gallon-per-minute restriction on industrial or power generation uses.* New withdrawals of water for industrial or power generation uses at one plant location shall not exceed 2,000 gallons per minute. Existing permits for industrial or power generation use that authorize withdrawal rates in excess of 2,000 gallons per minute may be modified or rescinded by the department if any well in the vicinity experiences loss of water due to pumping or if the pumping water level is reduced to or below the levels described in paragraphs “f” and “g” of this subrule.

c. *Limited cooling and geothermal use.* No once-through (single pass with disposal to storm sewer or equivalent) cooling water or geothermal usage is allowed. Withdrawals for geothermal purposes are prohibited unless 100 percent of the withdrawn water is reinjected into the aquifer in accordance with the requirements of the department.

d. *Jordan aquifer high-capacity permits and wells.* Water use permits for the Jordan aquifer shall be issued on a five-year permit cycle. The water use permit for wells expected to pump over 25,000 gallons per day from the Jordan aquifer must be obtained from the department before any water well construction permit is issued. After the water use permit has been obtained, the county may issue a water well construction permit for any nonpublic water supply system unless the well is located in one of the protected-source areas listed in 567—subrules 53.7(2) and 53.7(3). The department may issue a water well construction permit for any public water supply system or well located in the protected source areas listed in 567—subrules 53.7(2) and 53.7(3). All driller’s logs for water use wells completed in the Jordan aquifer shall be submitted to the department and the Iowa Geological Survey.

e. *Tier 1 Jordan wells.* A Jordan water use well is classified as Tier 1 when pumping water levels have not reached Tier 2 or Tier 3 levels described in paragraphs “f” and “g” of this subrule. Permittees with Tier 1 Jordan wells shall follow standard water use reporting procedures for the Jordan aquifer pursuant to rule 567—52.6(455B).

f. *Tier 2 Jordan wells.* A Jordan well is classified as Tier 2 when the pumping water level measured at the well declines over 300 feet below the 1978 Horick and Steinhilber potentiometric surface or the pumping water level declines over 50 percent from the 1978 Horick and Steinhilber potentiometric surface and the top of the Jordan aquifer, whichever is more conservative. Permittees with Tier 2 wells shall comply with paragraph “h” of this subrule.

g. *Tier 3 Jordan wells.* A Jordan well is classified as Tier 3 when the pumping water level measured at the well declines over 400 feet below the 1978 Horick and Steinhilber potentiometric surface or the pumping water level declines over 75 percent from the 1978 Horick and Steinhilber potentiometric surface and the top of the Jordan aquifer, whichever is more conservative. Permittees with Tier 3 wells shall comply with paragraph “i” of this subrule.

h. *Site-specific water use reduction plan for Tier 2 Jordan wells.* Permittees with Jordan wells that have reached the Tier 2 level pursuant to paragraph “f” of this subrule shall develop a water use reduction plan and submit the plan to the department. The plan must be reviewed and approved by the department. The water use reduction plan shall set a defined usage percent reduction target that will minimize Jordan aquifer withdrawals and prevent the decline of the water level from reaching the Tier 3 category pursuant to paragraph “g” of this subrule. Guidance for writing and implementing water use reduction plans is available in paragraph “k” of this subrule. If the water use reduction plan is not implemented, the department may reduce the permitted water use allocation, pursue enforcement of the permit, or rescind the permit.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

*i. Enhanced site-specific water use reduction plan and predictive model for Tier 3 Jordan wells.* Permittees with Jordan wells that have reached the Tier 3 level pursuant to paragraph “g” of this subrule shall develop an aggressive water use reduction plan using an approved predictive model that will lead to recovery of the pumping water level to elevations above Tier 3 levels. The plan and model predictions shall be reviewed and approved by the department. If water levels continue to decline beyond the Tier 3 level, the department may reduce the permitted water use allocation, pursue enforcement of the permit, including aspects of the water use reduction plan, or rescind the permit.

*j. Variances.* Variances from the restrictions imposed by these rules will be considered by the department through the procedures found in rule 567—50.9(455B) and in 561—Chapter 10.

*k. Resources for developing water use reduction plans.* The resources suggested by and available from the department as guidance for developing water use reduction plans are listed in paragraph 52.9(3)“d.”

ITEM 4. Adopt the following **new** paragraph **52.9(3)“d”**:

*d. Resources for water conservation and water use reduction planning.*

(1) The following resources are suggested by and available from the department as guidance for the development of water conservation plans and water use reduction plans:

1. “Water Wise—Efficiency Planning and Water Conservation Plan Workbook for Water and Wastewater Utilities,” Iowa Association of Municipal Utilities, 2013 (available online through the department’s Web site).

2. “Water Conservation Programs—A Planning Manual,” Manual of Water Supply Practices M52, American Water Works Association, 2006.

3. “Handbook of Water Use and Conservation,” Amy Vickers, Waterplow Press, Amherst, Massachusetts, 2001.

(2) Water conservation plans and water use reduction plans shall comply with the standards of the American Water Works Association or a reasonable equivalent as determined by the department.

ITEM 5. Adopt the following **new** subrules 53.7(2) and 53.7(3):

**53.7(2) Cambrian-Ordovician (Jordan) aquifer in Johnson and Linn Counties.**

*a. Geographical area.* The protected water source area includes portions of Johnson and Linn Counties. The actual geographical boundaries of the area are defined in subparagraph 53.7(2)“a”(3).

(1) New or modified water use permits. Any new application for a permit to withdraw groundwater or to increase an existing permitted withdrawal of groundwater from within the protected water source area will be restricted or denied if necessary to preserve public health and welfare.

(2) Withdrawal of groundwater. Withdrawal of groundwater from within the protected water source area may also be restricted or denied from any water supply well, public or private, and the construction of all new water supply wells shall be restricted or denied, if necessary, to preserve public health and welfare or to minimize adverse effects to the “available” head (i.e., the original pressure head above the top of the aquifer). The Johnson County and Linn County Health Departments are not authorized to issue a construction permit for a private well drilled into or through the Cambrian-Ordovician (Jordan) aquifer within the protected water source area without the approval of the department. The department’s water supply engineering section will determine whether the proposed well can be constructed and may require that the well meet public water well standards.

(3) Map of protected water source area. The department shall maintain a map of the protected water source area.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

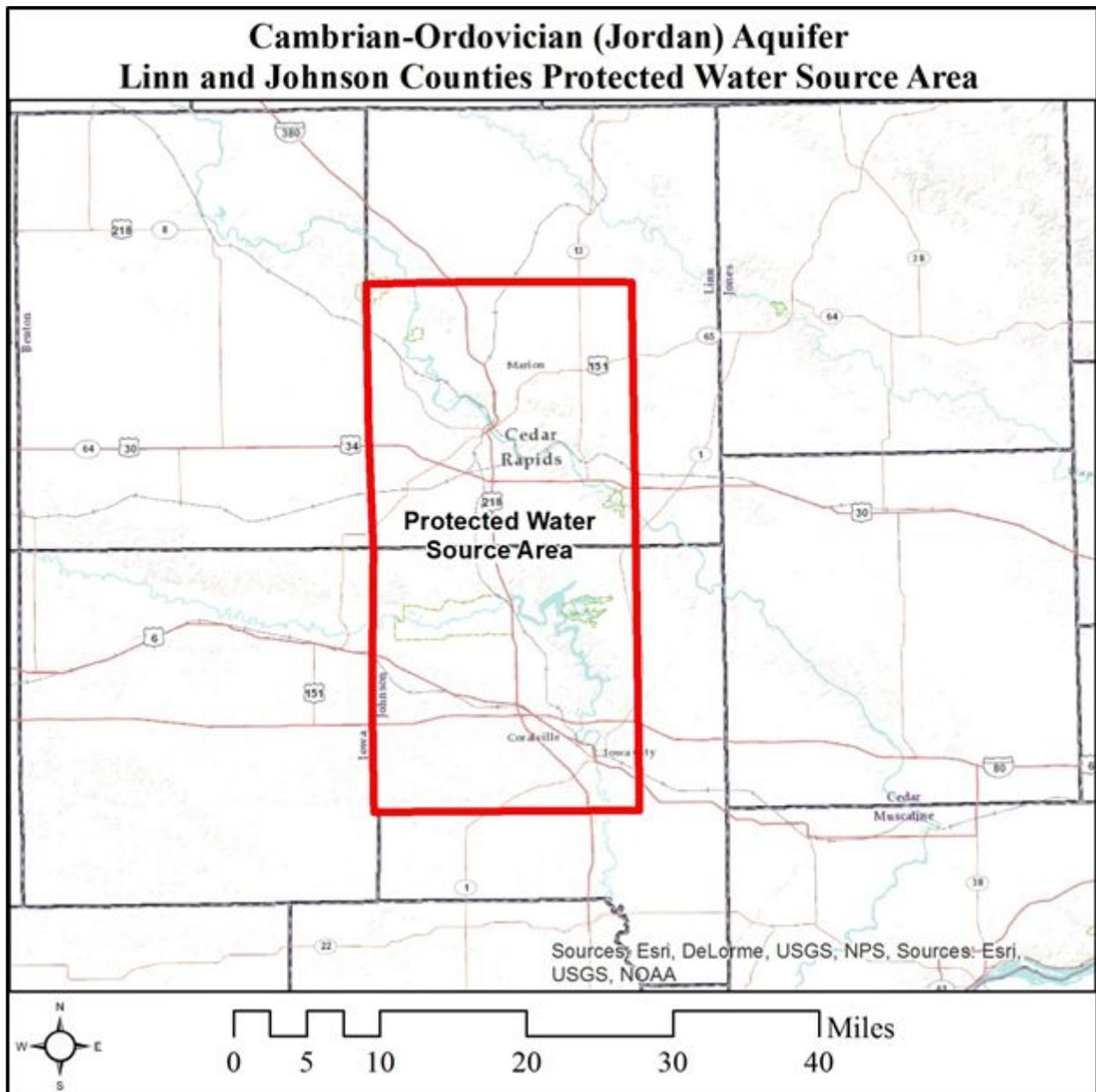
1. The entire following described area within Johnson County and within Linn County is defined as a protected water source.

**Johnson County**

- All areas of Township 79 North, Range 6 West.
- All areas of Township 79 North, Range 7 West.
- All areas of Township 79 North, Range 8 West.
- All areas of Township 80 North, Range 6 West.
- All areas of Township 80 North, Range 7 West.
- All areas of Township 80 North, Range 8 West.
- All areas of Township 81 North, Range 6 West.
- All areas of Township 81 North, Range 7 West.
- All areas of Township 81 North, Range 8 West.

**Linn County**

- All areas of Township 82 North, Range 6 West.
  - All areas of Township 82 North, Range 7 West.
  - All areas of Township 82 North, Range 8 West.
  - All areas of Township 83 North, Range 6 West.
  - All areas of Township 83 North, Range 7 West.
  - All areas of Township 83 North, Range 8 West.
  - All areas of Township 84 North, Range 6 West.
  - All areas of Township 84 North, Range 7 West.
  - All areas of Township 84 North, Range 8 West.
2. Map of the described protected water source area in Linn and Johnson Counties.



b. Reserved.

**53.7(3) Cambrian-Ordovician (Jordan) aquifer in Webster County.**

a. *Geographical area.* The protected water source area includes portions of Webster County. The actual geographical boundaries of the area are defined in subparagraph 53.7(3) "a"(3).

(1) New or modified water use permits. Any new application for a permit to withdraw groundwater or to increase an existing permitted withdrawal of groundwater from within the protected water source area will be restricted or denied if necessary to preserve public health and welfare.

(2) Withdrawal of groundwater. Withdrawal of groundwater from within the protected water source area may also be restricted or denied from any water supply well, public or private, and the construction of all new water supply wells shall be restricted or denied, if necessary, to preserve public health and welfare or to minimize adverse effects to the "available" head (i.e., the original pressure head above the top of the aquifer). The Webster County Health Department is not authorized to issue a construction permit for a private well drilled into or through the Cambrian-Ordovician aquifer within the protected water source area without the approval of the department. The department's water supply engineering

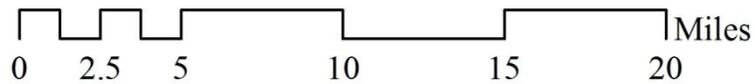
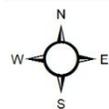
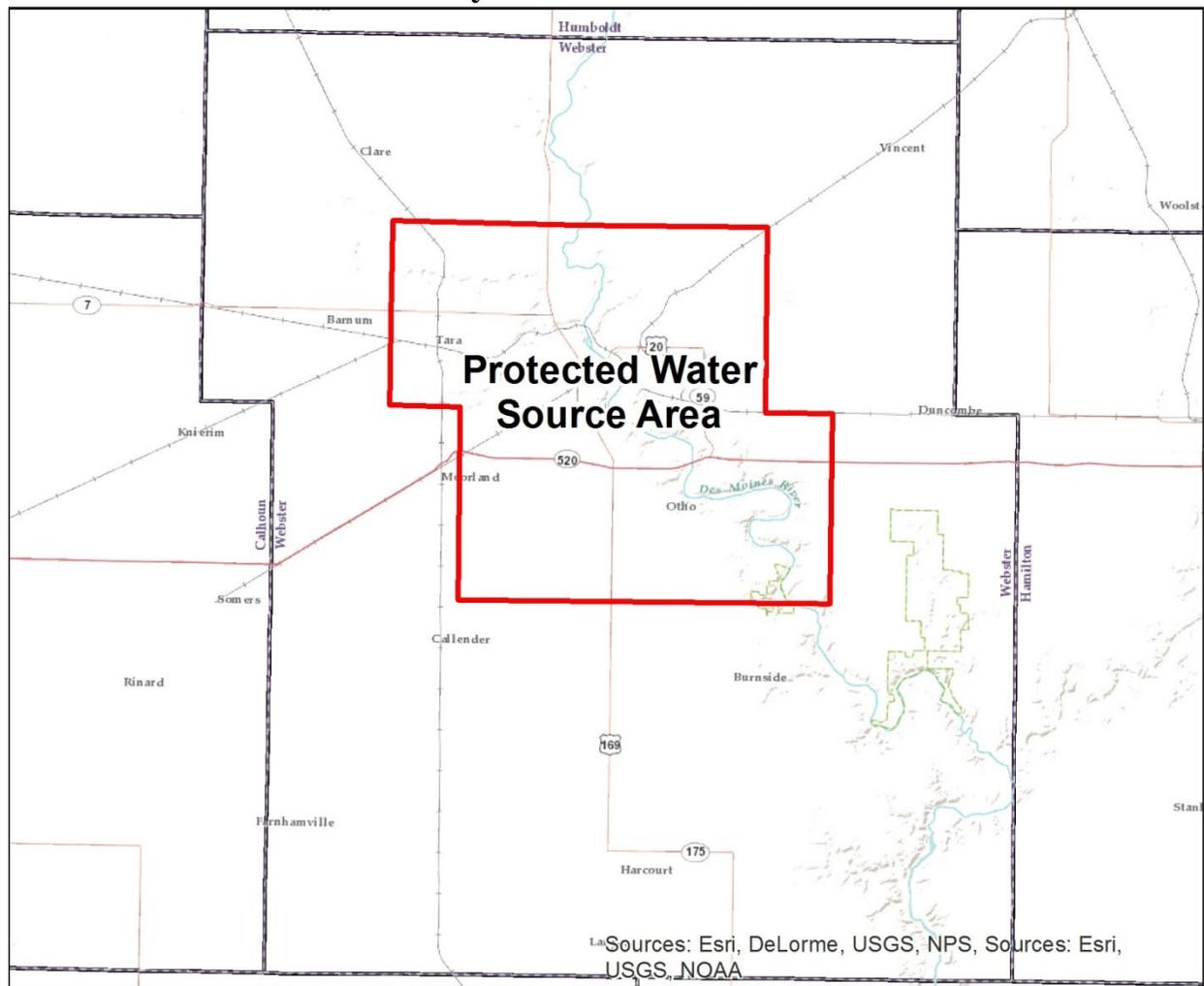
section will determine whether the proposed well can be constructed and may require that the well meet public water well standards.

(3) Map of protected water source. The department shall maintain a map of the protected water source area.

1. The entire following described area within Webster County is defined as a protected water source.

- All areas of Township 88 North, Range 28 West.
  - All areas of Township 88 North, Range 29 West.
  - All areas of Township 89 North, Range 28 West.
  - All areas of Township 89 North, Range 29 West.
2. Map of the described protected water source area in Webster County.

### Cambrian-Ordovician (Jordan) Aquifer Webster County Protected Water Source Area



b. Reserved.

**ARC 1921C****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 249A.4, the Department of Human Services proposes to amend Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Chapter 85, “Services in Psychiatric Institutions,” and Chapter 88, “Managed Health Care Providers,” Iowa Administrative Code.

These amendments change the reimbursement methodology for non-state-owned psychiatric medical institutions for children (PMICs). On and after July 1, 2014, non-state-owned PMICs shall be reimbursed according to the Iowa Plan for Behavioral Health contractor’s provider-specific per diem rate without reconciliation.

The reimbursement methodology is not changing for state-owned PMICs. The basis of payment for state-owned providers of inpatient psychiatric services for individuals under 21 years of age is 100 percent of the actual and allowable cost. The actual and allowable cost is based on the cost report information the facility submits to the Department on Form 470-0664, Financial and Statistical Report.

These amendments also add a reference to Chapter 85 within Chapter 88 in order to include PMIC services under the Iowa Plan for Behavioral Health contract requirements.

Any interested person may make written comments on the proposed amendments on or before April 7, 2015. 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](mailto: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 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule **79.1(2)**, provider category “Psychiatric medical institutions for children,” as follows:

Provider category	Basis of reimbursement	Upper limit
Psychiatric medical institutions for children:		
1. <u>Inpatient in non-state-owned facilities</u>	<u>Retrospective cost-related Provider-specific fee schedule as determined by the Iowa Plan for Behavioral Health managed care contractor</u>	<u>Effective 8/1/11: Actual and allowable cost not to exceed a maximum for non-state-owned providers of 103% of patient-day-weighted average costs of non-state-owned providers located within Iowa. Effective 7/1/14: non-state-owned facilities provider-specific fee schedule in effect.</u>
2. <u>Inpatient in state-owned facilities</u>	<u>Retrospective cost-related</u>	<u>Effective 8/1/11: 100% of actual and allowable cost.</u>
<del>2.</del> <u>3. Outpatient day treatment</u>	<u>Fee schedule</u>	<u>Fee schedule in effect 6/30/13 plus 1%.</u>

## HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend rule 441—85.25(249A) as follows:

**441—85.25(249A) Reimbursement to psychiatric medical institutions for children.**

**85.25(1)** *Computation of inpatient rate for non-state-owned facilities prior to July 1, 2014, and for state-owned facilities.* Facilities For services rendered by non-state-owned facilities on or before June 30, 2014, or by state-owned facilities, facilities are paid at a per diem rate based on the facility's actual and allowable cost for the service not to exceed the upper limit as provided in 441—subrule 79.1(2).

*a. to c.* No change.

**85.25(2)** *Inpatient reimbursement for non-state-owned facilities effective July 1, 2014.* Services rendered by non-state-owned facilities on or after July 1, 2014, shall be reimbursed according to the Iowa Plan for Behavioral Health contractor's negotiated, provider-specific per diem rate.

**85.25(2) 85.25(3)** *Reserve bed payments.*

*a. to c.* No change.

**85.25(3) 85.25(4)** *Day treatment rates.* Outpatient day treatment services are paid on a fixed fee basis.

ITEM 3. Amend subrule 88.62(1) as follows:

**88.62(1)** *Contract.* The department may enter into a contract for the provision of mental health and substance abuse services specified in 441—Chapter 78, and Chapter 85, Division II, or any portion thereof, with a prepaid health plan.

*a. and b.* No change.

**ARC 1916C**

**REGENTS BOARD[681]**

**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 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 1, “Admission Rules Common to the Three State Universities,” Iowa Administrative Code.

The rules in Chapter 1 set forth criteria for admission of undergraduate students directly from high school to the three Regent universities. The Regent Admission Index (RAI) was implemented with the entering freshman class of 2009. The RAI includes four factors: high school class rank, high school grade point average, performance on standardized tests (ACT composite or SAT combined), and the number of core subject area courses completed in high school. Since implementation in 2009, the number of public and private high schools in the state of Iowa not providing a high school class rank has increased from 3 to approximately 40. To address this change, each of the universities developed its own substitute for the missing factor, including a regression analysis, sliding scale or different weights for the remaining factors. After extensive data analysis, an alternative formula as presented in proposed Item 4 was developed to be used for applicants without high school class rank. In Item 3, the formula is stricken and a reformatted formula is inserted in lieu thereof; the substance of the formula is unchanged.

Any interested person may make written comments on the proposed amendments on or before April 7, 2015, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6420; or e-mail [mbruns@iastate.edu](mailto:mbruns@iastate.edu).

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

These amendments do not have any fiscal impact to the state of Iowa.

## REGENTS BOARD[681](cont'd)

After analysis and review of this rule making, no impact on jobs has been found. These amendments are intended to implement Iowa Code section 262.9(3). The following amendments are proposed.

ITEM 1. Amend **681—Chapter 1**, preamble, as follows:

PREAMBLE

~~Preamble:~~ The state board of regents has adopted the following requirements governing admission of students to the three state universities.

Each university is expected to describe in its catalog the requirements and other information necessary to make the admission process operate within the framework of these requirements.

Amendments and changes in these requirements normally are proposed by the universities to the regent committee on educational relations, which examines the proposals and makes specific recommendations through the ~~interinstitutional committee on educational coordination council of provosts~~ to the state board of regents, which is empowered by law to establish the admission requirements.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

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

**1.1(1)** Application. Applicants must submit a formal application for admission, together with the appropriate application fee as approved by the state board of regents pursuant to Iowa Code subsection 262.9(18)(3) and detailed in rule 681—1.7(262), and have their secondary school provide a transcript of their academic record, including credits and grades, rank in class (when available), and certification of graduation. Applicants must also submit SAT Reasoning Test or ACT scores. Applicants whose primary language is not English must also meet the English language proficiency requirement specified by each university. Applicants may be required to submit additional information or data to support their applications.

ITEM 3. Amend subparagraph **1.1(2)“b”(1)** as follows:

(1) Decisions on admission to a regent university are based on the following four factors: performance on standardized tests (SAT Reasoning Test or ACT); high school grade point average (GPA); high school percentile rank in class (when available); and number of high school courses completed in the core subject areas. ~~These factors are used in the following equation to calculate a regent admission index (RAI):~~ A primary regent admission index (RAI) will be calculated for each freshman applicant using the formula below when the high school has provided a class rank.

~~RAI = (2 × ACT composite score) + (1 × high school rank expressed as a percentile) + (20 × high school grade point average) + (5 × number of high school courses completed in the core subject areas)~~

$$\text{RAI} = \frac{(2 \times \text{ACT composite score})}{\text{composite score}} \pm \frac{(1 \times \text{high school rank expressed as a percentile})}{\text{percentile}} \pm \frac{(20 \times \text{high school grade point average})}{\text{grade point average}} \pm \frac{(5 \times \text{number of high school courses completed in the core subject areas})}{\text{high school courses completed in the core subject areas}}$$

NOTE: For purposes of calculating the primary regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school rank is expressed as a percentile with 99 percent as the top value; high school GPA is expressed in a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

REGENTS BOARD[681](cont'd)

ITEM 4. Amend subparagraph 1.1(2)“b”(2) as follows:

(2) Graduates of approved Iowa high schools who have the subject matter background required by each university and who meet the regent admission index of 245 required for automatic admission will be admitted to any regent university. Applicants who do not meet the regent admission index of 245 for automatic admission or for whom a regent admission index cannot be calculated may, after an individual review of their academic and test records, and at the discretion of the admissions officers:

1. Be admitted unconditionally,
2. Be admitted conditionally,
3. Be required to enroll for a tryout period during a preceding summer session, or
4. Be denied admission.

The regent universities recognize that the traditional measures of academic performance do not adequately describe some students' potential for success. Therefore, the regent universities strongly encourage all interested students to apply for admission. Applicants who feel their academic record is not an accurate reflection of their potential for success are encouraged to provide supplemental information explaining their circumstances, in addition to the application, academic transcripts, and test scores.

An alternative regent admission index (RAI) will be calculated for each freshman applicant using the equation below when the high school has not provided a class rank.

$$\text{RAI} = \frac{(3 \times \text{ACT composite score})}{\text{composite score}} + \frac{(30 \times \text{high school grade point average})}{\text{grade point average}} + \frac{(5 \times \text{number of high school courses completed in the core subject areas})}{\text{number of high school courses completed in the core subject areas}}$$

NOTE: For purposes of calculating the alternative regent admission index, the ACT composite score has a top value of 36 (SAT scores will be converted to ACT composite equivalents); high school GPA is expressed on a four-point scale; and number of high school courses completed in the core subject areas is expressed in terms of years or fractions of years of study.

Freshman applicants from Iowa high schools who have an RAI of at least 245 and who meet the minimum number of high school courses required by the regent universities will qualify for automatic admission to any of the three regent universities. Freshman applicants who have an RAI below 245 may also be admitted to a specific regent university; however, each regent university will review these applications on an individual basis, and admission decisions will be specific to each institution.

## TREASURER OF STATE

### Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions JoAnn Johnson, Superintendent of Banking James M. Schipper, and Auditor of State Mary Mosiman have established today the following rates of interest for public obligations and special assessments. The usury rate for March is 4.00%.

#### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants .....	Maximum 6.0%
74A.4 Special Assessments .....	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate

TREASURER OF STATE(cont'd)

a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective March 10, 2015, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days .....	Minimum .05%
32-89 days .....	Minimum .05%
90-179 days .....	Minimum .05%
180-364 days .....	Minimum .05%
One year to 397 days .....	Minimum .05%
More than 397 days .....	Minimum .15%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**ARC 1912C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code sections 455B.105(3) and 455B.198, the Environmental Protection Commission hereby amends Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

The purpose of this rule making is to renew General Permit No. 6, which continues to authorize the discharge of wastewater associated with well construction activities through the use of best management practices (BMPs) and requires the monitoring of the wastewater effluent to determine compliance with the state’s water quality standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 10, 2014, as **ARC 1757C**. A public hearing was held on January 6, 2015. No comments were received. This amendment is identical to that published under Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2)“b”(2), this amendment became effective March 1, 2015. This amendment sets an earlier effective date than the one established by Iowa Code section 17A.5(2) because the amendment confers a benefit or removes a restriction on the regulated public in that it prevents a lapse in general permit coverage for well construction and service activities that generate wastewater discharges to waters of the United States. If the general permit were to expire prior to renewal, these well services would not be possible during the period of March 1, 2015, to April 22, 2015 (the earliest possible effective date under normal rule-making procedures), as the issuance of an individual NPDES permit can take as long as six months to obtain for this type of activity.

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

This amendment is intended to implement Iowa Code section 455B.198.

This amendment became effective March 1, 2015.

The following amendment is adopted.

Amend subrule 64.15(6) as follows:

**64.15(6)** “Discharge Associated with Well Construction Activities,” NPDES General Permit No. 6, effective March ~~17, 2010~~ 1, 2015, to February 28, ~~2015~~ 2020.

[Filed Emergency After Notice 2/18/15, effective 3/1/15]

[Published 3/18/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/18/15.

**ARC 1913C**

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby amends Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contaminants,” Chapter 25, “Measurement of Emissions,” Chapter 31, “Nonattainment Areas,” and Chapter 33, “Special Regulations and Construction Permit Requirements for Major Stationary Sources—Prevention of Significant Deterioration (PSD) of Air Quality,” Iowa Administrative Code.

This rule making rescinds unnecessary rules and updates other rules to reduce regulatory requirements. The rescission of the Voluntary Operating Permit program fulfills the recommendations of an Executive Order 80 stakeholder workgroup. The amendments also implement a portion of the Department of Natural Resources’ (Department’s) five-year rules review plan to accomplish the requirements of Iowa Code section 17A.7(2).

The Commission rescinds the following air quality rules:

1. References to air quality forms that no longer exist or are explained elsewhere in rule;
2. Conditional permits;
3. Voluntary Operating Permit program; and
4. The adoption by reference of several air toxics standards and new source performance standards that do not apply to any Iowa sources.

The Commission also reduces regulatory requirements by:

1. Amending the definition of “volatile organic compounds” to remove several compounds; and
2. Sunsetting the requirements for testing and monitoring mercury emissions that are being addressed by federal regulations.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 24, 2014, as **ARC 1795C**, and a public hearing was held on January 26, 2015. The Department received no comments at the public hearing. The Department did not receive any written comments prior to the January 26, 2015, deadline for public comments. The Commission made one minor change to the proposed amendment in Item 21, as described below. The Commission did not make any other changes to the amendments as published under Notice of Intended Action.

**Volatile Organic Compounds**

**Background**

Between July 2, 2012, and March 27, 2014, the U.S. Environmental Protection Agency (EPA) published revisions to remove several compounds from the definition of “volatile organic compounds” (VOC). The excluded compounds are HFO-1234ze, HFE-134, HFE-236cal2, HFE-338pcc13, H-Galden 1040X (H-Galden ZT 130, 150 or 180), Solstice<sup>TM</sup> 1233zd(E), HFO-1234yf, and 2-amino-2-methyl-1-propanol (AMP). EPA removed the compounds because the compounds make a negligible contribution to tropospheric ozone formation.

The Commission has adopted EPA’s revisions so that state rules match current federal regulations. The amendment is a benefit to the regulated community because affected facilities will no longer need to count these compounds towards potential or actual VOC emissions for permitting or emission inventory purposes.

**Adopted Amendment**

Item 1 amends rule 567—20.2(455B) to revise the definition of “volatile organic compounds” or “VOC” to adopt by reference the current federal definition of “VOC” and to remove several compounds from the list of VOCs (see also Item 23).

**References to Air Quality Forms**

**Background**

Rule 567—20.3(455B), air quality forms generally, includes the names and descriptions of forms that are used by the public. The Department reviewed this rule and found that forms referenced in the rule

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

either are no longer in use or are referenced elsewhere in other air quality rules. The Commission has rescinded this rule to eliminate unnecessary rules and to meet the requirements of Iowa Code section 17A.7(2).

**Adopted Amendment**

Item 2 rescinds and reserves rule 567—20.3(455B) to eliminate obsolete and duplicative references to air quality forms.

**Conditional Permits****Background**

Conditional permits were added to the Iowa Code in the 1970s to facilitate electric utility rate setting. The Iowa Utilities Board changed the rate-setting requirements so that conditional permits were not needed. The Department has no record of issuing a conditional permit to an electric utility. 2014 Iowa Acts, Senate File 2197, signed by Governor Branstad on March 14, 2014, removed the statutory authority for conditional permits. The Commission has removed rule provisions for conditional permits as part of the five-year rules review required in Iowa Code section 17A.7(2). Removing outdated rules will clarify and streamline the Department's air quality program.

**Adopted Amendments**

The Commission adopted Items 3 through 11 to rescind all rule requirements and references for conditional permits (see also Items 22 and 23).

Item 3 amends the introductory paragraph of subrule 22.1(1) to remove a reference to conditional permits.

Item 4 amends the introductory paragraph of subrule 22.1(3) to remove references to conditional permits.

Item 5 rescinds and reserves subrule 22.1(4) to remove conditional permit requirements.

Item 6 amends subrule 22.2(2) to remove a reference to conditional permits.

Item 7 amends subrule 22.2(3) to remove a reference to conditional permits.

Item 8 amends the introductory paragraph of subrule 22.3(1) to remove references to conditional permits.

Item 9 rescinds and reserves paragraph 22.3(3)“d” to remove conditional permit requirements.

Item 10 amends paragraph 22.3(3)“g” to remove references to conditional permits.

Item 11 amends paragraph 22.3(4)“a” to remove references to conditional permits.

**Voluntary Operating Permits****Background**

The Department developed the Voluntary Operating Permit (VOP) program to assist facilities that wanted to take voluntary limitations on emissions and operations to avoid having to obtain a Title V operating permit. In the mid-1990s, EPA required the Department to have a federally enforceable operating permit program to address existing facilities that wanted to establish limits below the Title V operating permit program thresholds. The Department's Air Construction Permit program also provides a mechanism to establish limits for facilities to remain below the Title V operating permit program thresholds. The Department utilized the Lean Value Stream Mapping process to identify the VOP program as a program that could be eliminated to reduce the regulatory burden on industry and to remove unnecessary regulations.

An Executive Order 80 (EO80) stakeholder group was formed to make recommendations to the Commission on the VOP program. The EO80 stakeholder group recommended rescinding the VOP rules. The Department worked individually with each of the VOP facilities to transition these facilities to alternate permitting options. The Department completed the necessary permitting activities in late May 2014. Table 1 lists all of the facilities moved out of the VOP program and includes descriptions of the alternative mechanisms used, if any, to ensure that potential emissions at each facility remain below Title V program thresholds.

**Table 1: Summary of VOP Transitions**

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Facility	New Permit Format (If Required)
Cargill, Buffalo	Facility has a Group 1 Grain Elevator permit.
Estherville Municipal Utility, Estherville	Construction permits issued.
Ferguson Elevator Corporation, Ferguson	No permit required. The facility is closed.
Flexible Industries Company, Burlington	No permit required. The facility is closed.
JBS USA LLC, Marshalltown	The facility transitioned to a Title V operating permit to allow for projected emissions increases.
Kinze Manufacturing Inc., Williamsburg	Construction permits issued.
Klinger Paint Company, Cedar Rapids	Construction permits issued.
LG Everist Inc., Hawarden	Construction permit issued.
Maaco Auto Repair, Council Bluffs	Facility has a permit-by-rule permit.
McGregor Municipal Utilities, McGregor	Construction permits issued.
MicroSoy Corporation/West Central Coop, Jefferson	Construction permits issued.
Paxton & Vierling Steel Company, Carter Lake	Construction permits issued.
Peoples Natural Gas, Council Bluffs	No permit required. The facility is closed.
Phillips Pipe Line Company/Noble Petro Inc., Council Bluffs	Construction permit issued.
Rock Rapids Municipal Utilities, Rock Rapids	Construction permit issued.
Spencer Municipal Utilities, Spencer	Construction permits issued.
Tama Packing Company, Tama	No permit required. The facility is closed. New equipment was permitted when the facility reopened under a new facility name and number.
The Dial Corporation/Pinnacle Foods Group Inc., Fort Madison	Construction permits issued.

### Adopted Amendments

The Commission has adopted the amendments in Items 12 through 17 to remove the requirements for and references to the VOP program.

Item 12 amends the definition “designated representative” in rule 567—22.100(455B) to remove the reference to the voluntary operating permit rules.

Item 13 rescinds and reserves rules 567—22.200(455B) to 567—22.209(455B) to remove voluntary operating permit requirements.

Item 14 amends the introductory paragraph of rule 567—22.300(455B) to remove the reference to voluntary operating permit rules.

Item 15 amends paragraph 22.300(2)“c” to remove references to voluntary operating permits.

Item 16 amends the introductory paragraph of paragraph 22.300(8)“a” to remove references to voluntary operating permits.

Item 17 amends paragraph 22.300(9)“a” to remove references to voluntary operating permits.

### New Source Performance Standards and Air Toxics Standards

#### Background

The U.S. Clean Air Act (CAA) obligates the EPA to issue standards to control air pollution. Two categories of standards, the new source performance standards (NSPS) and the air toxics standards (formally called national emission standards for hazardous air pollutants or NESHAP), set standards and deadlines for industrial, commercial and institutional facilities to meet uniform standards for equipment operation and air pollutant emissions.

The CAA allows a state or local agency to implement NSPS and NESHAP as a “delegated authority.” Upon state adoption, the Department becomes the delegated authority for the specific NSPS or NESHAP and is the primary implementation agency in Iowa. Two local air quality agencies, Polk County and Linn County, implement these standards within their counties. Iowa’s rules, including all compliance deadlines, are identical to the federal NSPS and NESHAP as of a specific date.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The Department identified previously adopted NSPS and NESHAP that do not affect any facilities in Iowa and are unlikely to affect any Iowa facilities in the future. Most of these federal standards apply to mineral and material processing.

The Commission has rescinded the paragraphs that adopt by reference these NSPS and NESHAP. The rescissions accomplish the Department's goal of eliminating obsolete rules and meet the requirements in Iowa Code section 17A.7(2). If an affected facility should plan to locate in Iowa in the future, the Department will evaluate whether to request adoption of the standards at that time. Removing the unnecessary provisions makes the rules more accessible and understandable for regulated entities and the public.

**Adopted Amendments**

Item 18 rescinds and reserves paragraphs 23.1(2)“g,” “h,” “m,” “n,” “o,” and “p” to remove the adoption by reference of NSPS under 40 Code of Federal Regulations (CFR) Part 60 for petroleum production, secondary lead smelters, primary copper smelters, primary zinc smelters, primary lead smelters, and primary aluminum reduction plants, respectively.

Item 19 rescinds and reserves paragraphs 23.1(3)“b,” “c,” “h,” and “j” to remove the adoption by reference of the NESHAP under 40 CFR Part 61 for beryllium, beryllium rocket motor firing, inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities, and inorganic arsenic emissions from primary copper smelters, respectively.

Item 20 rescinds and reserves paragraphs 23.1(4)“j,” “p,” “x,” “ac,” “ai,” “al,” “bc,” “bq,” “bt,” “dr,” and “dt” to remove the adoption by reference of the NESHAP under 40 CFR Part 63 for polyvinyl chloride and copolymers production, primary aluminum production plants, secondary lead smelting, petroleum production, ship building and ship repair, steel pickling plants, primary copper smelting, primary lead smelting, taconite iron ore processing, and primary magnesium refining, respectively.

**Mercury Emissions Testing and Monitoring Rule****Background**

The Commission adopted the mercury emissions testing and monitoring rules in 2009 as a temporary requirement until EPA finalized its mercury air toxics standards (“MATS”) for electric utility steam generating units (EGUs). EPA has now finalized MATS, which includes mercury emissions standards and monitoring requirements. The state mercury rules are duplicative of the MATS requirements.

The Commission proposed in the Notice of Intended Action a sunset date for the mercury rule of April 16, 2015, which is the MATS compliance date for existing EGUs. However, the Commission revised the sunset date to April 22, 2015, in the adopted amendment. The date change ensures that no conflict exists between the sunset date in the rule and the 35-day effective date for an Adopted and Filed rule making required under Iowa Code section 17A.5.

If a facility receives an extension to comply with MATS, the Commission has adopted rule language requiring that the facility continue to comply with the mercury monitoring rules until the date the facility is required to comply with MATS or, alternatively, is no longer subject to MATS compliance requirements.

**Adopted Amendment**

Item 21 amends the introductory paragraph of rule 567—25.3(455B) to add a sunset date for the state's mercury emissions testing and monitoring requirements.

**Additional Amendments**

Item 22 amends paragraph 31.20(1)“m” to remove the reference to conditional permits. The Commission has rescinded all rule requirements and references to conditional permits, as described above for Items 3 through 11.

Item 23 amends the definitions of “enforceable permit condition” and “volatile organic compounds” or “VOC” in subrule 33.3(1). The revision to the definition of “enforceable permit condition” removes the reference to conditional permits and is the same as the amendment described above for Item 22. The change to the definition of “volatile organic compounds” or “VOC” is the same as the revision explained above for Item 1.

**Jobs Impact Statement**

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review, the Department has determined that the adopted amendments will have a positive impact on private sector jobs.

Removing compounds from the list of VOCs

Revising the definition of “VOC” in rule 567—20.2(455B) and in subrule 33.3(1) will have a positive impact on facilities because the compounds being excluded no longer need to be considered when permit applications or emissions inventories are prepared.

Eliminating obsolete and redundant rule references to air quality forms

Rescinding rule 567—20.3(455B) will benefit the regulated community and the public by providing current and nonduplicative references to air quality forms.

Rescinding the rules for conditional permits

Rescinding the rule requirements for and references to conditional permits will have no impact on jobs because the Department has no record of issuing a conditional permit to an electric utility. However, rescinding the obsolete rule requirements for and references to conditional permits as described above should benefit the regulated community and the public by providing them with up-to-date air quality requirements.

Rescinding the VOP program rules

Businesses with a VOP permit were required to renew the application every five years. The VOP application included all emissions at the facility and took a considerable amount of time to complete. Rescinding the VOP program rule requirements and references as noted above reduces the regulatory burden for businesses by eliminating the five-year renewal requirement, thus saving the time it takes to draft and submit the comprehensive application.

Removing adoption by reference of NSPS and NESHAP

Iowa currently has no industries affected by the NSPS and NESHAP being rescinded in subrules 23.1(2), 23.1(3), and 23.1(4), and these requirements are unlikely to affect any Iowa facilities in the future. Rescinding these standards will streamline state air quality rules and will have a positive impact on the regulated community and the public.

Sunsetting the mercury testing and monitoring rule

Adding a sunset date to the mercury monitoring requirements in rule 567—25.3(455B) will have a positive impact on affected facilities by eliminating potentially duplicative and expensive testing and monitoring requirements.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on April 22, 2015.

The following amendments are adopted.

ITEM 1. Amend rule **567—20.2(455B)**, definition of “Volatile organic compounds,” as follows:  
“*Volatile organic compounds*” or “*VOC*” means any compound included in the definition of “volatile organic compounds” found at 40 CFR Section 51.100(s) as amended through ~~January 21, 2009~~ March 27, 2014.

ITEM 2. Rescind and reserve rule **567—20.3(455B)**.

ITEM 3. Amend subrule 22.1(1), introductory paragraph, as follows:

**22.1(1) Permit required.** Unless exempted in subrule 22.1(2) or to meet the parameters established in paragraph “c” of this subrule, no person shall construct, install, reconstruct or alter any equipment, control equipment or anaerobic lagoon without first obtaining a construction permit, ~~or conditional permit~~, or permit pursuant to rule 567—22.8(455B), or permits required pursuant to rules 567—22.4(455B), 567—22.5(455B), 567—31.3(455B), and 567—33.3(455B) as required in this subrule. A permit shall be obtained prior to the initiation of construction, installation or alteration of any portion of the stationary source or anaerobic lagoon.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

ITEM 4. Amend subrule 22.1(3), introductory paragraph, as follows:

**22.1(3) Construction permits.** The owner or operator of a new or modified stationary source shall apply for a construction permit ~~unless a conditional permit is required by Iowa Code chapter 455B or subrule 22.1(4) or requested by the applicant in lieu of a construction permit.~~ Two copies of a construction permit application for a new or modified stationary source shall be presented or mailed to Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324. Alternatively, the owner or operator may apply for a construction permit for a new or modified stationary source through the electronic submittal format specified by the department. The owner or operator of any new or modified industrial anaerobic lagoon or a new or modified anaerobic lagoon for an animal feeding operation other than a small operation as defined in rule 567—65.1(455B) shall apply for a construction permit. Two copies of a construction permit application for an anaerobic lagoon shall be presented or mailed to Department of Natural Resources, Water Quality Bureau, Henry A. Wallace Building, 502 East Ninth Street, Des Moines, Iowa 50319.

ITEM 5. Rescind and reserve subrule **22.1(4)**.

ITEM 6. Amend subrule 22.2(2) as follows:

**22.2(2) Public notice and participation.** A notice of intent to issue a ~~conditional or~~ construction permit to a major stationary source shall be published by the department in a newspaper having general circulation in the area affected by the emissions of the proposed source. The notice and supporting documentation shall be made available for public inspection upon request from the department's central office. Publication of the notice shall be made at least 30 days prior to issuing a permit and shall include the department's evaluation of ambient air impacts. The public may submit written comments or request a public hearing. If the response indicates significant interest, a public hearing may be held after due notice.

ITEM 7. Amend subrule 22.2(3) as follows:

**22.2(3) Final notice.** The department shall notify the applicant in writing of the issuance or denial of a construction ~~or conditional~~ permit as soon as practicable and at least within 120 days of receipt of the completed application. This shall not apply to applicants for electric generating facilities subject to Iowa Code chapter 476A.

ITEM 8. Amend subrule 22.3(1), introductory paragraph, as follows:

**22.3(1) Stationary sources other than anaerobic lagoons.** In no case shall a construction permit ~~or conditional permit~~ which results in an increase in emissions be issued to any facility which is in violation of any condition found in a permit involving PSD, NSPS, NESHAP or a provision of the Iowa state implementation plan. If the facility is in compliance with a schedule for correcting the violation and that schedule is contained in an order or permit condition, the department may consider issuance of a construction permit ~~or conditional permit~~. A construction ~~or conditional~~ permit shall be issued when the director concludes that the preceding requirement has been met and:

ITEM 9. Rescind and reserve paragraph **22.3(3)“d.”**

ITEM 10. Amend paragraph **22.3(3)“g”** as follows:

g. The issuance of a permit ~~or conditional permit~~ (approval to construct) shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the state implementation plan and any other requirement under local, state or federal law.

ITEM 11. Amend paragraph **22.3(4)“a”** as follows:

a. When an application for a construction ~~or conditional~~ permit is denied, the applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the right of the applicant to file a further application after revisions are made to meet the objections specified as reasons for the denial.

ITEM 12. Amend rule **567—22.100(455B)**, definition of “Designated representative,” as follows:

“Designated representative” means a responsible natural person authorized by the owner(s) or operator(s) of an affected source and of all affected units at the source, as evidenced by a certificate

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

of representation submitted in accordance with Subpart B of 40 CFR Part 72 as amended to October 24, 1997, to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program. Whenever the term “responsible official” is used in rules ~~567—22.100(455B) to 567—22.208(455B)~~ 567—Chapter 22, it shall be deemed to refer to the designated representative with regard to all matters under the acid rain program.

ITEM 13. Rescind and reserve rules ~~567—22.200(455B) to 567—22.209(455B)~~.

ITEM 14. Amend rule ~~567—22.300(455B)~~, introductory paragraph, as follows:

**567—22.300(455B) Operating permit by rule for small sources.** Except as provided in ~~567—subrules 22.201(2) and subrule 22.300(11)~~, any source which otherwise would be required to obtain a Title V operating permit may instead register for an operation permit by rule for small sources. Sources which comply with the requirements contained in this rule will be deemed to have an operating permit by rule for small sources. Sources which comply with this rule will be considered to have federally enforceable limits so that their potential emissions are less than the major source thresholds for regulated air pollutants and hazardous air pollutants as defined in rule ~~567—22.100(455B)~~.

ITEM 15. Amend paragraph ~~22.300(2)“c”~~ as follows:

*c.* Nothing in this rule shall prevent any stationary source which has had a Title V operating permit ~~or a voluntary operating permit~~ from qualifying to comply with this rule in the future in lieu of maintaining an application for a Title V operating permit ~~or a voluntary operating permit~~ or upon rescission of a Title V operating permit ~~or a voluntary operating permit~~ if the owner or operator demonstrates that the stationary source is in compliance with the emissions limitations in subrule ~~22.300(6)~~.

ITEM 16. Amend paragraph ~~22.300(8)“a,”~~ introductory paragraph, as follows:

*a.* Duty to apply. Any person who owns or operates a source otherwise required to obtain a Title V operating permit and which would be eligible for an operating permit by rule for small sources must either register for an operating permit by rule for small sources, ~~apply for a voluntary operating permit~~, or apply for a Title V operating permit. Any source determined not to be eligible for an operating permit by rule for small sources, and operating without a valid Title V ~~or a valid voluntary~~ operating permit, shall be subject to enforcement action for operation without a Title V operating permit, except as provided for in the application shield provisions contained in ~~rules rule 567—22.104(455B) and 567—22.202(455B)~~. For each source registering for an operating permit by rule for small sources, the owner or operator or designated representative, where applicable, shall present or mail to the Air Quality Bureau, Iowa Department of Natural Resources, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa 50324, one original and one copy of a timely and complete registration form in accordance with this rule.

ITEM 17. Amend paragraph ~~22.300(9)“a”~~ as follows:

*a.* If the issuance of a construction permit acts to make the source no longer eligible for an operating permit by rule for small sources, the source shall, within 12 months of issuance of the construction permit, submit an application for ~~either a Title V operating permit or a voluntary operating permit~~.

ITEM 18. Rescind and reserve paragraphs ~~23.1(2)“g,” “h,” “m,” “n,” “o” and “p.”~~

ITEM 19. Rescind and reserve paragraphs ~~23.1(3)“b,” “c,” “h” and “j.”~~

ITEM 20. Rescind and reserve paragraphs ~~23.1(4)“j,” “p,” “x,” “ac,” “ai,” “al,” “bc,” “bq,” “bt,” “dr” and “dt.”~~

ITEM 21. Amend rule ~~567—25.3(455B)~~, introductory paragraph, as follows:

**567—25.3(455B) Mercury emissions testing and monitoring.** Any stationary, coal-fired boiler or stationary, coal-fired combustion turbine serving, at any time since the later of November 15, 1990, or the start-up of the unit’s combustion chamber, a generator with a nameplate capacity of more than 25

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

megawatt electrical (MWe) producing electricity for sale is an affected source under the provisions of this rule.

The provisions of this rule expire on April 22, 2015, except for any affected facility that receives an extension to comply with the emission standards for hazardous air pollutants: coal- and oil-fired electric utility steam generating units (EGUs) (40 CFR Part 63, Subpart UUUUU, commonly known as mercury air toxics standards (MATS)). Any facility receiving an extension of the MATS compliance date shall continue to comply with the provisions of this rule until the date the facility is required to comply with MATS or, alternatively, is no longer subject to the MATS compliance requirements. However, facilities complying with the requirements of this rule as specified in subrule 25.3(3), continuous emissions monitoring systems (CEMS), may submit a written request to the department to discontinue concurrent, annual stack tests. The department will evaluate and grant requests on a case-by-case basis, based upon previous stack test results and how recent the last stack test occurred or other extenuating circumstances, such as those that may cause testing conditions to be unrepresentative of normal operations or cause tests to be unsafe to perform. If the department grants a request, the facility will be required to continue operating CEMS and conduct relative accuracy test audits (RATAs), as specified in subrule 25.3(3), until the facility is required to comply with MATS or, alternatively, is no longer subject to MATS compliance requirements.

ITEM 22. Amend paragraph **31.20(1)“m”** as follows:

*m. “Enforceable permit condition”* for the purpose of this rule means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emission standards for hazardous air pollutants, requirements within the state implementation plan, and any permit requirements established pursuant to this rule, or under ~~conditional~~, construction or Title V operating permit rules.

ITEM 23. Amend subrule **33.3(1)**, definitions of “Enforceable permit condition” and “Volatile organic compounds,” as follows:

*“Enforceable permit condition,”* for the purpose of this chapter, means any of the following limitations and conditions: requirements developed pursuant to new source performance standards, prevention of significant deterioration standards, emissions standards for hazardous air pollutants, requirements within the SIP, and any permit requirements established pursuant to this chapter, any permit requirements established pursuant to 40 CFR 52.21 or Part 51, Subpart I, as amended through October 20, 2010, or under ~~conditional~~, construction or Title V operating permit rules.

*“Volatile organic compounds”* or *“VOC”* means any compound included in the definition of “volatile organic compounds” found at 40 CFR 51.100(s) as amended through ~~January 21, 2009~~ March 27, 2014.

[Filed 2/18/15, effective 4/22/15]

[Published 3/18/15]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/18/15.

**ARC 1911C**

## **ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 272C.4 and 455B.222 and 2014 Iowa Acts, chapter 1116 (Senate File 303), the Environmental Protection Commission hereby amends Chapter 81, “Operator Certification: Public Water Supply Systems and Wastewater Treatment Systems,” Iowa Administrative Code.

Chapter 81 sets out regulations for the certification of public drinking water supply and wastewater treatment operators and includes examination eligibility requirements, examination protocols, continuing education requirements, renewal requirements, reciprocity requirements and all

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

corresponding fees. Chapter 81 is being amended as a result of the Home Base Iowa Act, 2014 Iowa Acts, chapter 1116, section 34.

The amendments clarify the process by which the Department provides credit toward certification qualifications for military service, education and training, and the procedures for reciprocal certification for veterans who are certified water or wastewater operators in another state.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 24, 2014, as **ARC 1796C**. Two articles about the rule making and the opportunity for public comment were included in the Department's water supply listserv on November 12, 2014, and December 31, 2014; each was sent to more than 990 people. The amendments were reviewed by the Administrative Rules Review Committee on January 6, 2015. One public hearing was held on January 14, 2015. There were no attendees at the public hearing, and no written comments were received. These amendments are identical to those published under Notice.

After analysis and review of this rule making, it is anticipated that the amendments will have a positive impact on jobs by facilitating the licensure of veterans for employment in Iowa.

These amendments are intended to implement Iowa Code sections 455B.211 to 455B.224, Iowa Code chapter 272C, and 2014 Iowa Acts, chapter 1116 (Senate File 303), division VI.

These amendments will become effective April 22, 2015.

The following amendments are adopted.

ITEM 1. Adopt the following **new** definitions of "Military service," "Military service applicant" and "Veteran" in rule **567—81.1(455B)**:

*"Military service"* means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

*"Military service applicant"* means an individual requesting credit toward certification for military education, training, or service obtained or completed in military service.

*"Veteran"* means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

ITEM 2. Amend subrule 81.7(1), introductory paragraph, as follows:

**81.7(1) Education and experience requirements.** All applicants shall meet the education and experience requirements for the grade of certificate shown in the table below prior to being allowed to take the examination. Experience shall be in the same classification for which the applicant is applying except that partial credit may be given in accordance with 81.7(2) and 81.7(3). Directly related post-high school education shall be in the same subject matter as the classification in which the applicant is applying. Directly related post-high school education will be granted education credit 2.0 times the number of semester, quarter or CEU credits until January 1, 2006. The director will determine which courses qualify as "directly related" in cases which are not clearly defined. A military service applicant may apply for credit for verified military education, training, or service toward any education or experience requirement for certification, pursuant to subrule 81.7(4).

ITEM 3. Adopt the following **new** subrule 81.7(4):

**81.7(4) Military education, training, and service credit.**

a. The applicant shall identify the experience or education certification requirements for which the credit is requested.

b. As part of the examination application pursuant to subrule 81.9(1), the applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

ITEM 4. Amend subrule 81.9(2) as follows:

**81.9(2) Application evaluation.** The director shall designate department personnel to evaluate all applications for examination, certification, and renewal of certification and upgrading of certification.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

After evaluation of the application, the department will issue the applicant either a letter of examination eligibility or a letter of examination noneligibility that includes a description of the education or experience requirements that have not been met. The director will review applications when it is indicated that the applicant has falsified information or when questions arise concerning an applicant's qualifications of eligibility for examination or certification.

ITEM 5. Amend subrule 81.11(3) as follows:

**81.11(3) Reciprocity application.**

a. All applicants. Applicants who seek Iowa certification pursuant to subrule 81.11(1) or 81.11(2) shall submit an ~~application for examination~~ Operator Certification Reciprocity Application accompanied by a letter requesting certification pursuant to these subrules. Application for certification pursuant to 81.11(1) and 81.11(2) shall be received by the director in accordance with these subrules. The applicant shall be certified at the appropriate grade pursuant to subrule 81.7(1).

b. Veteran applicants. An applicant who is a veteran shall submit an Operator Certification Reciprocity Application pursuant to paragraph 81.11(3) "a" and shall also provide such documentation as is needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2). The veteran's application shall be given priority and shall be expedited.

[Filed 2/18/15, effective 4/22/15]

[Published 3/18/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/18/15.

**ARC 1908C**

**LABOR SERVICES DIVISION[875]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby amends Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

In 2010, the U.S. Department of Labor, Occupational Safety and Health Administration (federal OSHA), made significant updates to the occupational safety and health standards concerning crane safety. At that time, federal OSHA established a November 10, 2014, deadline for crane operators to become certified and the Iowa Labor Commissioner adopted the federal requirements by reference.

On September 26, 2014, federal OSHA extended the deadline for crane operator certification to November 10, 2017. Federal OSHA also extended by three years the employer's responsibility to ensure that crane operators are competent to operate a crane safely, effectively leaving the status quo in place for an additional three years.

The principal reasons for adoption of this amendment are to implement legislative intent, protect the safety and health of Iowa workers, and make Iowa's rules current and consistent with federal regulations. Pursuant to Iowa Code subsection 88.5(1) and 29 CFR 1953.5, Iowa must adopt changes to the federal occupational safety and health standards.

Notice of Intended Action was published in the December 24, 2014, Iowa Administrative Bulletin as **ARC 1797C**. No public comment was received on the proposed amendment. This amendment is identical to that published under Notice.

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, no impact on jobs will occur.

This amendment is intended to implement Iowa Code section 88.5 and 29 CFR 1953.5.

This amendment shall become effective on April 22, 2015.

The following amendment is adopted.

LABOR SERVICES DIVISION[875](cont'd)

Amend rule **875—26.1(88)** by inserting the following at the end thereof:  
79 Fed. Reg. 57798 (September 26, 2014)

[Filed 2/16/15, effective 4/22/15]

[Published 3/18/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/18/15.

**ARC 1910C**

## **NURSING BOARD[655]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby adopts new Chapter 18, "Military Service and Veteran Reciprocity," Iowa Administrative Code.

Chapter 18 is promulgated as a result of the Home Base Iowa Act, which requires all professional and occupational licensing boards, commissions, and other authorities subject to Iowa Code chapter 272C to adopt by January 1, 2015, rules on military service and veteran licensure. The rules address the process under which the Board will provide credit toward licensure qualifications for military service, education, and training and the procedures for expediting reciprocal and provisional licensure for veterans who are licensed in other states.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 26, 2014, as **ARC 1737C**. No written or oral comments were received. These rules are identical to those published under Notice.

These rules were adopted by the Board on February 11, 2015.

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

These rules are intended to implement Iowa Code sections 17A.3, 147.76 and 272C.4.

These rules will become effective April 22, 2015.

The following amendment is adopted.

Adopt the following **new** 655—Chapter 18:

### CHAPTER 18

#### MILITARY SERVICE AND VETERAN RECIPROCITY

##### **655—18.1(85GA,ch1116) Definitions.**

*"Military service"* means honorably serving on federal active duty, state active duty, or national guard duty, as defined in Iowa Code section 29A.1; in the military services of other states, as provided in 10 U.S.C. Section 101(c); or in the organized reserves of the United States, as provided in 10 U.S.C. Section 10101.

*"Military service applicant"* means an individual requesting credit toward licensure for military education, training, or service obtained or completed in military service.

*"Reciprocity"* means the process by which a nurse licensed in another jurisdiction becomes licensed in Iowa. Reciprocity may also be referred to as "endorsement."

*"Veteran"* means an individual who meets the definition of "veteran" in Iowa Code section 35.1(2).

**655—18.2(85GA,ch1116) Military education, training, and service credit.** A military service applicant may apply for credit for verified military education, training, or service toward any experience or educational requirement for licensure by submitting a military service application form to the board office.

**18.2(1)** The application may be submitted with an application for licensure or examination or prior to application for licensure or to take an examination. No fee is required with submission of an application for military service credit.

## NURSING BOARD[655](cont'd)

**18.2(2)** The applicant shall identify the experience or educational licensure requirement to which the credit would be applied if granted. Credit shall not be applied to an examination requirement.

**18.2(3)** The applicant shall provide documents, military transcripts, a certified affidavit, or forms that verify completion of the relevant military education, training, or service, which may include, when applicable, the applicant's Certificate of Release or Discharge from Active Duty (DD Form 214) or Verification of Military Experience and Training (VMET) (DD Form 2586).

**18.2(4)** Upon receipt of a completed military service application, the board shall promptly determine whether the verified military education, training, or service will satisfy all or any part of the identified experience or educational qualifications for licensure requirement.

**18.2(5)** The board shall grant the credit requested in the application in whole or in part if the board determines that the verified military education, training, or service satisfies all or part of the experience or educational qualifications for licensure.

**18.2(6)** The board shall inform the military service applicant in writing of the credit, if any, given toward an experience or educational qualification for licensure, or explain why no credit was granted. The applicant may request reconsideration upon submission of additional documentation or information.

**18.2(7)** A military service applicant who is aggrieved by the board's decision may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the military service applicant in connection with a contested case conducted pursuant to this subrule.

**18.2(8)** The board shall grant or deny the military service application prior to ruling on the application for licensure. The applicant shall not be required to submit any fees in connection with the licensure application unless the board grants the military service application. If the board does not grant the military service application, the applicant may withdraw the licensure application or request that the licensure application be placed in pending status for up to one year or as mutually agreed. The withdrawal of a licensure application shall not preclude subsequent applications supported by additional documentation or information.

**655—18.3(85GA,ch1116) Veteran reciprocity.**

**18.3(1)** A veteran with a nursing license in another jurisdiction may apply for licensure in Iowa through reciprocity (endorsement) pursuant to 655—Chapter 3. A veteran must pass any examinations required for licensure to be eligible for licensure through reciprocity. A fully completed application for licensure submitted by a veteran under this subrule shall be given priority and shall be expedited.

**18.3(2)** Such an application shall contain all of the information required of all applicants for licensure who hold licenses in other jurisdictions and who are applying for licensure by reciprocity, including, but not limited to, completion of all required forms, payment of applicable fees, disclosure of criminal or disciplinary histories, and, if applicable, a criminal history background check. The applicant shall use the same forms as any other applicant for licensure by reciprocity and shall additionally provide such documentation as is reasonably needed to verify the applicant's status as a veteran under Iowa Code section 35.1(2).

**18.3(3)** Upon receipt of a fully completed licensure application, the board shall promptly determine if the professional or occupational licensing requirements of the jurisdiction where the veteran is licensed are substantially equivalent to the licensing requirements in Iowa. The board shall make this determination based on information supplied by the applicant and such additional information as the board may acquire from the applicable jurisdiction. The board may consider the following factors in determining substantial equivalence: scope of practice, education and coursework, degree requirements, postgraduate experience, and examinations required for licensure.

**18.3(4)** The board shall promptly grant a license to the veteran if the veteran is licensed in the same or similar profession in another jurisdiction whose licensure requirements are substantially equivalent to those required in Iowa, unless the applicant is ineligible for licensure based on other grounds, for example, the applicant's disciplinary or criminal background.

NURSING BOARD[655](cont'd)

**18.3(5)** If the board determines that the licensing requirements in the jurisdiction in which the veteran is licensed are not substantially equivalent to those required in Iowa, the board shall promptly inform the veteran of the additional experience, education, or examinations required for licensure in Iowa. Unless the applicant is ineligible for licensure based on other grounds, such as disciplinary or criminal background, the following shall apply:

*a.* If a veteran has not passed the required examination(s) for licensure, the veteran may not be issued a provisional license, but may request that the licensure application be placed in pending status for up to one year or as mutually agreed to provide the veteran with the opportunity to satisfy the examination requirements.

*b.* If additional experience or education is required in order for the applicant's qualifications to be considered substantially equivalent, the applicant may request that the board issue a provisional license for a specified period of time during which the applicant will successfully complete the necessary experience or education. The board shall issue a provisional license for a specified period of time upon such conditions as the board deems reasonably necessary to protect the health, welfare or safety of the public unless the board determines that the deficiency is of a character that the public health, welfare or safety will be adversely affected if a provisional license is granted.

*c.* If a request for a provisional license is denied, the board shall issue an order fully explaining the decision and shall inform the applicant of the steps the applicant may take in order to receive a provisional license.

*d.* If a provisional license is issued, the application for full licensure shall be placed in pending status until the necessary experience or education has been successfully completed or the provisional license expires, whichever occurs first. The board may extend a provisional license on a case-by-case basis for good cause.

**18.3(6)** A veteran who is aggrieved by the board's decision to deny an application for a reciprocal license or a provisional license or is aggrieved by the terms under which a provisional license will be granted may request a contested case (administrative hearing) and may participate in a contested case by telephone. A request for a contested case shall be made within 30 days of issuance of the board's decision. No fees or costs shall be assessed against the veteran in connection with a contested case conducted pursuant to this subrule.

These rules are intended to implement 2014 Iowa Acts, chapter 1116, division VI.

[Filed 2/17/15, effective 4/22/15]

[Published 3/18/15]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/18/15.

**ARC 1909C**

## **PROFESSIONAL LICENSURE DIVISION[645]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 148C.3, the Board of Physician Assistants hereby amends Chapter 327, "Practice of Physician Assistants," Iowa Administrative Code.

This rule making removes the requirement that a physician assistant (PA) who is practicing in a remote medical site must have a supervising physician physically visit and practice at the remote medical site at least every two weeks.

The current requirement that physicians leave their practice and travel to remote medical sites creates a financial burden. With advances in technology, the need for supervising physicians to be physically present has changed. With enhancements in medical care, including electronic medical records, cell phones, fax, and real-time audiovisual interaction via electronic means, appropriate supervision can occur effectively when the physician is not physically present at the practice location. In addition, effective July 11, 2014, the federal requirement that a physician be physically on site in a rural health clinic every two weeks was removed. Compared to the site visitation requirements of surrounding

## PROFESSIONAL LICENSURE DIVISION[645](cont'd)

states, Iowa's site visitation requirement is the most restrictive. This rule making seeks to bring Iowa's requirements up to date with advances in technology and current national practice standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 26, 2014, as **ARC 1741C**. A public hearing was held on December 16, 2014.

The Board received 12 written comments. Comments received at the public hearing mirrored submitted written comments. Comments in support of the rule making were received from the Iowa Physician Assistant Society; the American Academy of Physician Assistants; Iowa Specialty Hospital; individual PAs and a physician. Comments in support of the rule making noted that the federal requirement for on-site visits every two weeks has been removed; that PAs in the surrounding states of Minnesota, Wisconsin, Illinois, and South Dakota practice without the on-site requirement; that technology has advanced sufficiently to allow for appropriate supervision and consultation; and that removal of a one-size-fits-all requirement would allow the physician/physician assistant team greater flexibility to meet the health care needs of Iowans. Comments in opposition to the rule making were received from the Polk County Medical Society, Iowa Board of Medicine, Iowa Academy of Family Physicians, Iowa Osteopathic Medical Association, Cedar Rapids Physician Hospital Organization, and Iowa Medical Society. Comments in opposition noted that one visit every two weeks was an absolute minimum; that telehealth alone is insufficient to ensure a PA's competency and to provide appropriate oversight; that the on-site visit does not create a financial burden; and that the rule making does not set clear minimum expectations so that the public is assured that supervision is occurring.

The Board reviewed all public comment at its meeting on January 21, 2015. After discussion, the Board determined that the supervision requirements of subrules 326.8(4) and 327.1(1) clearly set out supervision expectations. The Board voted to adopt the amendment without making any changes to the Noticed rule making.

This amendment is identical to that published under Notice.

The amendment is subject to the waiver provisions at 645—Chapter 18.

The Iowa Board of Physician Assistants adopted this amendment on January 21, 2015.

After analysis and review of this rule making, there is a potential for a positive impact on jobs with increased utilization of physician assistants in rural health clinics.

This amendment is intended to implement Iowa Code section 148C.3.

This amendment will become effective April 22, 2015.

The following amendment is adopted.

Amend subrule 327.4(2) as follows:

**327.4(2)** A supervising physician must ~~visit a remote site to provide additional medical direction, medical services and consultation at least every two weeks or less frequently as specified in special circumstances in accordance with the requirements in 645—subrule 326.8(4) and subrule 327.1(1).~~ When visits are less frequent than every two weeks in unusual or emergency circumstances, the board shall be notified in writing of these circumstances.

[Filed 2/16/15, effective 4/22/15]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/18/15.

AGENCY	RULE	DELAY
Educational Examiners Board[282]	14.2(10), 14.2(11) [IAB 2/18/15, <b>ARC 1884C</b> ]	Effective date of March 25, 2015, delayed until the adjournment of the 2016 General Assembly by the Administrative Rules Review Committee at its meeting held March 6, 2015. [Pursuant to §17A.8(9)]