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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”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

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

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, 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 7.17, 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 2009

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 24 '08	Jan. 14 '09	Feb. 3 '09	Feb. 18 '09	Feb. 20 '09	Mar. 11 '09	Apr. 15 '09	July 13 '09
Jan. 9	Jan. 28	Feb. 17	Mar. 4	Mar. 6	Mar. 25	Apr. 29	July 27
Jan. 23	Feb. 11	Mar. 3	Mar. 18	Mar. 20	Apr. 8	May 13	Aug. 10
Feb. 6	Feb. 25	Mar. 17	Apr. 1	Apr. 3	Apr. 22	May 27	Aug. 24
Feb. 20	Mar. 11	Mar. 31	Apr. 15	Apr. 17	May 6	June 10	Sep. 7
Mar. 6	Mar. 25	Apr. 14	Apr. 29	May 1	May 20	June 24	Sep. 21
Mar. 20	Apr. 8	Apr. 28	May 13	***May 13***	June 3	July 8	Oct. 5
Apr. 3	Apr. 22	May 12	May 27	May 29	June 17	July 22	Oct. 19
Apr. 17	May 6	May 26	June 10	June 12	July 1	Aug. 5	Nov. 2
May 1	May 20	June 9	June 24	***June 24***	July 15	Aug. 19	Nov. 16
May 13	June 3	June 23	July 8	July 10	July 29	Sep. 2	Nov. 30
May 29	June 17	July 7	July 22	July 24	Aug. 12	Sep. 16	Dec. 14
June 12	July 1	July 21	Aug. 5	Aug. 7	Aug. 26	Sep. 30	Dec. 28
June 24	July 15	Aug. 4	Aug. 19	***Aug. 19***	Sep. 9	Oct. 14	Jan. 11 '10
July 10	July 29	Aug. 18	Sep. 2	Sep. 4	Sep. 23	Oct. 28	Jan. 25 '10
July 24	Aug. 12	Sep. 1	Sep. 16	Sep. 18	Oct. 7	Nov. 11	Feb. 8 '10
Aug. 7	Aug. 26	Sep. 15	Sep. 30	Oct. 2	Oct. 21	Nov. 25	Feb. 22 '10
Aug. 19	Sep. 9	Sep. 29	Oct. 14	Oct. 16	Nov. 4	Dec. 9	Mar. 8 '10
Sep. 4	Sep. 23	Oct. 13	Oct. 28	***Oct. 28***	Nov. 18	Dec. 23	Mar. 22 '10
Sep. 18	Oct. 7	Oct. 27	Nov. 11	***Nov. 12***	Dec. 2	Jan. 6 '10	Apr. 5 '10
Oct. 2	Oct. 21	Nov. 10	Nov. 25	***Nov. 25***	Dec. 16	Jan. 20 '10	Apr. 19 '10
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Dec. 9	Dec. 30	Jan. 19 '10	Feb. 3 '10	Feb. 5 '10	Feb. 24 '10	Mar. 31 '10	June 28 '10
Dec. 23	Jan. 13 '10	Feb. 2 '10	Feb. 17 '10	Feb. 19 '10	Mar. 10 '10	Apr. 14 '10	July 12 '10

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
15	Wednesday, December 24, 2008	January 14, 2009
16	Friday, January 9, 2009	January 28, 2009
17	Friday, January 23, 2009	February 11, 2009

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*****

AGENCY	HEARING LOCATION	DATE AND TIME
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]		
Pesticides—timing of application near registered apiaries, record keeping, 45.26(3)“i,” 45.31 IAB 12/17/08 ARC 7432B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 7, 2009 2 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Emission standards—Brick and Boiler MACTs, 23.1(4)“dd,” “dj” IAB 12/3/08 ARC 7395B	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	January 5, 2009 1 p.m.
Iowa antidegradation implementation procedure, 61.2(2), 61.3 IAB 11/19/08 ARC 7368B	Public Library 609 Cayuga St. Storm Lake, Iowa	December 17, 2008 10 a.m.
	Conference Room Atlantic Municipal Utilities 15 W. 3rd St. Atlantic, Iowa	December 17, 2008 6 p.m.
	Community Meeting Room 15 N. 6th St. Clear Lake, Iowa	December 18, 2008 1 p.m.
	Waitt Building Iowa Lakeside Laboratory Milford, Iowa	January 8, 2009 7 p.m.
	Public Library 304 Franklin St. Manchester, Iowa	January 14, 2009 10 a.m.
	Room 115, Suite 102 Northeast Iowa Community College 1220 3rd Ave. Waukon, Iowa	January 14, 2009 6 p.m.
	Film Room, Public Library 321 Main St. Davenport, Iowa	January 15, 2009 1 p.m.
Assessment policy and procedure for underground storage tank owners and operators, 135.2, 135.8(1)“e,” 135.9(4)“f,” 135.10 IAB 12/3/08 ARC 7400B	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	January 6, 2009 1:30 p.m.
HISTORICAL DIVISION[223]		
Historical resource development program funding policies, 49.2, 49.3 IAB 12/3/08 ARC 7387B	Tone Board Room Historical Building 600 E. Locust St. Des Moines, Iowa	December 23, 2008 10 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]		
Membership requirements of joint E911 service boards, 10.3(1)“a,” 10.15 IAB 12/17/08 ARC 7431B	Conference Room, Building W-4 Camp Dodge 7105 N.W. 70th Ave. Johnston, Iowa	January 8, 2009 1 p.m.
NATURAL RESOURCE COMMISSION[571]		
Permits and easements for construction and related activities on public lands and waters, ch 13 IAB 12/17/08 ARC 7416B (ICN Network)	Heritage Classroom C, Room 157 State Historical Building 600 E. Locust St. Des Moines, Iowa	January 8, 2009 6 p.m.
	State Room AEA 267 Regional Office 9184B 265th St. Clear Lake, Iowa	January 8, 2009 6 p.m.
	Room 024, Looft Hall Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	January 8, 2009 6 p.m.
	Room 2, Keystone AEA 2310 Chaney Rd. Dubuque, Iowa	January 8, 2009 6 p.m.
	Room 117, Kirkwood Comm. College 1816 Lower Muscatine Rd. Iowa City, Iowa	January 8, 2009 6 p.m.
	Great Prairie AEA 2814 N. Court St. Ottumwa, Iowa	January 8, 2009 6 p.m.
	Distance Learning Center Spirit Lake High School 2701 Hill Ave. Spirit Lake, Iowa	January 8, 2009 6 p.m.
PROFESSIONAL LICENSURE DIVISION[645]		
Board of barbering, rescind chs 20, 26; amend chs 21 to 25 IAB 12/3/08 ARC 7401B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	December 23, 2008 9 to 9:30 a.m.
Board of physical and occupational therapy, 201.3, 206.1, 208.3 IAB 12/17/08 ARC 7442B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	January 6, 2009 10 to 10:30 a.m.
Sign language interpreters and transliterators—temporary licensure, 361.2, 362.2, 362.3(2) IAB 12/17/08 ARC 7407B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	January 6, 2009 9 to 9:30 a.m.

AGENCY	HEARING LOCATION	DATE AND TIME
PUBLIC HEALTH DEPARTMENT[641]		
Continuing education for plumbing and mechanical systems professionals, ch 30 IAB 12/17/08 ARC 7429B (ICN Network)	ICN Room, Sixth Floor Lucas State Office Bldg. Des Moines, Iowa	January 6, 2009 10 a.m. to 2 p.m.
	Public Library 529 Pierce St. Sioux City, Iowa	January 6, 2009 10 a.m. to 2 p.m.
	Public Library 400 Willow Ave. Council Bluffs, Iowa	January 6, 2009 10 a.m. to 2 p.m.
	Public Library 415 Commercial St. Waterloo, Iowa	January 6, 2009 10 a.m. to 2 p.m.
	Public Library 102 W. 4th St. Ottumwa	January 6, 2009 10 a.m. to 2 p.m.
	Public Library 2950 Learning Campus Dr. Bettendorf	January 6, 2009 10 a.m. to 2 p.m.
TREASURER OF STATE[781]		
Fairgrounds infrastructure grant program, ch 20 IAB 12/3/08 ARC 7405B	1st Floor Lucas Conference Room 148 Lucas State Office Bldg. Des Moines, Iowa	December 23, 2008 2 to 3:30 p.m.
UTILITIES DIVISION[199]		
Electric load service limiters, 20.1(3), 20.4 IAB 12/17/08 ARC 7409B	350 Maple St. Des Moines, Iowa	February 5, 2009 10 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“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 which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

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 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
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IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
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LOTTERY AUTHORITY, IOWA[531]
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County Finance Committee[547]
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The State of Iowa will receive FEMA funding under the Hazard Mitigation Grant Program (HMGP) as part of Presidential disaster declaration FEMA-1763-DR (May 27, 2008) as a result of tornados and catastrophic flooding that occurred in our State. The initial notice of funds availability for this disaster was published June 20, 2008, and limited the mitigation project type to property acquisitions.

Project Types

The State is opening up HMGP funds availability beyond property acquisition/demolition and planning projects. Projects may be of any type that will reduce or eliminate losses from future natural disasters, including but not limited to:

- Construction of tornado safe rooms (Multi-functional community or school safe room projects are highly encouraged)
- Acquisition, structural relocation or elevation of buildings located in a special flood hazard area
- Structural and non-structural retrofitting of existing public buildings, facilities, or utilities to protect against wind, ice, or flood hazards
- Minor structural hazard control or protection projects such as storm water management (e.g., culverts, floodgates, retention basins)
- Localized flood control projects, such as floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system

The State will consider all HMGP project types except back-up power generation and warning systems at this time. The State will publish a notice if funding for back-up power generation and warning systems becomes available in the future.

Eligible Applicants

Potentially eligible applicants include:

- State agencies and local governments
- Federally recognized Indian tribal governments, including State-recognized Indian tribes, and authorized tribal organizations
- Private nonprofit (PNP) organizations or institutions that operate a PNP facility as defined in the 44 Code of Federal Regulations, Section 206.221(e).

The Disaster Mitigation Act of 2000 (DMA 2000) requires a FEMA approved local mitigation plan prior to FEMA awarding HMGP project funds. If a community does not have an approved plan or is engaged in the planning process, there may still be an opportunity for them to be awarded HMGP project funds once the plan is approved. These communities are encouraged to submit a Notice of Interest (NOI) and potentially develop a project application.

Applicants with proposed projects located in a FEMA-identified Special Flood Hazard Area must be a National Flood Insurance Program (NFIP) participating community. However, applicants who were NFIP participants in the past but currently are suspended or sanctioned are not eligible for HMGP funds, regardless where the proposed project is located.

Notice of Interest & Application Process

Applicants must complete and email the NOI form (see attached) to hsemd.mitigation@iowa.gov no later than March 15, 2009. The State is strongly encouraging early submission of NOIs. The State mitigation staff will review NOIs for basic eligibility and send invitations for full HMGP project application within a few weeks. The invitation letter will identify a project officer for the applicant, who will contact the applicant to discuss the project and offer technical assistance throughout the application process.

The application deadline is May 1, 2009. Project applications will be accepted, reviewed, and submitted to FEMA for funding approval on a continuous basis. Therefore, earlier submission potentially means earlier funding, absent any special circumstances or issues.

Funds

The total estimated amount of HMGP funds available is \$244 million. There is not a funding limit on individual project applications. The estimated cost share for awarded HMGP project grants is:

- Federal (FEMA) – 75% maximum
- Non Federal – 25%
 - o State of Iowa – 10%
 - o Community Development Block Grant – 15%

(Administered through the Iowa Department of Economic Development)

For additional information or questions, feel free to contact a lead State Mitigation Project Officer:

Jim Russell: 515-251-3673 jim.russell@iowa.gov

Linda Roose: 515-251-3675 linda.roose@iowa.gov

We ask that the County Emergency Management Coordinators, Councils of Government, and Planning Commissions forward this information to the communities in their service area to achieve the widest distribution possible.

ARC 7432B**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****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 206.19, the Iowa Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 45, "Pesticides," Iowa Administrative Code.

This proposed rule making rewrites the existing rule related to the application of pesticides near bees. Commercial pesticide applicators spraying within one mile of a registered apiary shall not spray between 8 a.m. and 6 p.m. Commercial pesticide applicators will need to keep records of the time pesticide application began and ended.

Any interested party may make written comments or suggestions on the proposed amendments until 4:30 p.m. on January 7, 2009. Written comments should be sent to Margaret Thomson, Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa 50319; or faxed to (515)281-6236. E-mail comments may be sent to Margaret.Thomson@IowaAgriculture.gov.

A public hearing will be held on January 7, 2009, at 2 p.m. in the Second Floor Conference Room, Wallace State Office Building, Des Moines, Iowa 50319.

No waiver provision is included in these proposed amendments. However, the Department's general waiver provisions, found at 21—Chapter 8, would apply.

These amendments are intended to implement Iowa Code sections 206.6 and 206.19.

The following amendments are proposed.

ITEM 1. Adopt the following **new** paragraph **45.26(3)"i"**:

i. Time pesticide application begins and ends.

ITEM 2. Rescind rule 21—45.31(206) and adopt the following **new** rule in lieu thereof:

21—45.31(206) Application of pesticides toxic to bees.

45.31(1) Owners of apiaries, in order to protect their bees from pesticide applications, shall register the location of their apiaries with the state apiarist. Registration shall be on forms provided by the department. The registration expires December 31 each year and may be renewed the following year.

45.31(2) Between 8 a.m. and 6 p.m., a commercial applicator shall not apply to blooming crops pesticides labeled as toxic to bees when the commercial applicator is located within one mile of a registered apiary. A commercial applicator shall be responsible for maintaining the one-mile distance from apiaries that are registered and listed on the sensitive crop registry on the first day of each month.

This rule is intended to implement Iowa Code sections 206.6(5)"a"(3) and 206.19(2).

ARC 7433B**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]****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 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 3, "Application and Renewal Process," Iowa Administrative Code.

Item 1 of these amendments clarifies the components and due dates for the Principles and Practice examination applications. Item 2 of these amendments clarifies the components of a complete application for licensure by comity and clearly states that comity applications will not be reviewed until all components have been received. This amendment also clarifies that comity applicants will be notified of the results of the application review in writing and further clarifies the Board's position with regard to temporary permits.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before January 6, 2009. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to glean.coates@iowa.gov.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

These amendments are intended to implement Iowa Code sections 542B.2, 542B.6, 542B.13, 542B.14, 542B.15, 542B.20, 542B.30, 272C.2 and 272C.3.

The following amendments are proposed.

ITEM 1. Amend subrule 3.2(3) as follows:

3.2(3) Principles and Practice examination application components and due dates. ~~The components of the application for the Principles and Practice of Engineering and the Principles and Practice of Land Surveying examinations include: the completed, notarized application form; the ethics questionnaire; references; transcripts; verification of examination records; and the project statement.~~ Principles and Practice of Engineering and Principles and Practice of Land Surveying examination applications require a detailed review and must, therefore, be submitted to the board office, postmarked on or before July 15 of each year for the examination given in the fall and on or before January 15 of each year for the examination given in the spring. The Principles and Practice examination application packet, including the following components, must be postmarked on or before the deadline date: (1) the completed, notarized and signed application form; (2) the required number of references; (3) the project statement; and (4) the ethics questionnaire. In addition, a complete application file must include verification of examination records and transcripts. Examination applications will not be reviewed by the board until the application file is complete. Since the verification of examination records must be sent directly from the jurisdiction where the applicant took the Fundamentals of Engineering examination, the applicant should contact the other jurisdiction well in advance of the deadline for submittal of the application to request this verification in order to ensure that the verification is received by the board no later than July 25 for the fall examination or by January 25 for the spring examination. For transcripts, the applicant should contact the university well in advance of the deadline for submittal of the application to ensure that the transcripts are received no later than July 25 for the fall examination or by January 25 for the spring examination. Examination application files that are not complete by January 25 will not be reviewed for the spring examination. Likewise, examination applications that are not complete by July 25 will not be reviewed for the fall examination.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

ITEM 2. Amend rule 193C—3.3(542B) as follows:

193C—3.3(542B) Comity applications.

3.3(1) The components of a comity application include: the completed, notarized application form; the ethics questionnaire; references; transcripts; and ~~verifications~~ verification of examinations, as appropriate. Comity applicants may submit the NCEES record in lieu of providing references, verifications, transcripts, and employment history. Since the verification of examination records must, in most cases, be sent directly from the jurisdiction where the applicant took the Fundamentals of Engineering and Principles and Practice Engineering examinations, the applicant should contact the other jurisdiction in advance of submitting the application to request this verification and make every effort to have the verification sent to the board at the time that the application is submitted. Likewise, for transcripts the applicant should contact the university in advance of submitting the application to make every effort to have the transcripts transmitted to the board at the time that the application is submitted.

3.3(2) Comity applications will be reviewed ~~and processed~~ as they are completed. ~~Applications that are complete and meet the standard requirements of these rules are processed immediately upon completion and review.~~ Comity applications will not be reviewed until all components have been received.

3.3(3) Comity applicants ~~are~~ will be notified in writing via regular mail or E-mail regarding the results of the review of their applications.

3.3(4) Temporary permits. The board does not issue temporary permits. ~~Temporary~~ Based upon review by a board member, temporary permits were previously issued to applicants whose applications ~~were reviewed by a board member, who~~ met all requirements, and who were expected to qualify for approval by the full board at the next regularly scheduled board meeting. Since applications that meet these criteria are now routinely processed as they are completed and reviewed, temporary permits are no longer necessary.

ARC 7434B

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

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 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 4, "Engineering Licensure," Iowa Administrative Code.

Item 1 of these amendments clarifies the components of the work project statement and indicates that the Board will only approve work project statements that include all of the components listed in the rule. Item 2 of these amendments removes the requirement that all applicants for licensure by comity must submit three references and allows the applicant to submit one or more references that verify at least four years of satisfactory experience after receipt of the qualifying degree.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before January 6, 2009. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to glean.coates@iowa.gov.

Waiver of these rules may be sought pursuant to 193—Chapter 5.

These amendments are intended to implement Iowa Code sections 542B.2, 542B.13, 542B.14, 542B.15, 542B.17 and 542B.20.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

The following amendments are proposed.

ITEM 1. Amend subrule 4.1(4) as follows:

4.1(4) Work project description. An applicant for initial licensure as a professional engineer must include with the application a work project statement of approximately 200 words describing a significant project on which the applicant worked closely during the previous 12 months. The board will review all work project statements and will only approve those that include all of the components listed below in paragraphs "a" through "d" and meet the criteria listed in paragraph "e."

a. The statement shall describe the applicant's degree of responsibility for the project ~~and~~.

b. The statement shall identify the project's owner and its location.

c. The statement shall include the name of the supervisor in charge of the project and, if the supervisor is a professional engineer, the license number of the supervisor.

d. The statement shall be signed and dated.

e. Criteria the board shall use in evaluating the acceptability of the project as qualifying experience for the applicant shall include, but not be limited to, the following:

~~a.~~ (1) The degree to which the project and the experience described have progressed from assignments typical of initial assignments to those more nearly expected of a licensed professional;

~~b.~~ (2) The scope and quality of the professional tutelage experienced by the applicant;

~~c.~~ (3) The technical decisions required of the applicant in the project; and

~~d.~~ (4) The professional decisions required of the applicant.

The board reserves the right to contact the employer and the person providing tutelage on the project for information about the project experience presented to the applicant.

ITEM 2. Amend subrule 4.2(1) as follows:

4.2(1) References. ~~An applicant for licensure by comity shall submit three references on forms provided by the board, at least two of which shall be from licensed professional engineers. An applicant for licensure by comity shall submit references to verify at least four years of satisfactory experience after the receipt of the qualifying degree. This experience must be under the supervision of a licensed professional engineer, or the applicant must provide unlicensed tutelage references verifying at least four years of satisfactory engineering experience.~~ The board reserves the right to contact employers for information about the applicant's professional experience and competence.

ARC 7435B

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

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 542B.6, the Engineering and Land Surveying Examining Board hereby gives Notice of Intended Action to amend Chapter 11, "Minimum Standards for Property Surveys," Iowa Administrative Code.

Item 1 of these amendments modifies the definition of "retrace" to require monumentation with permanent monuments. Item 2 describes what monuments found or placed by a surveyor shall, at a minimum, include.

Any interested person may make written or oral suggestions or comments on the proposed amendments on or before January 6, 2009. Comments should be directed to Glean Coates, Executive Officer, Iowa Engineering and Land Surveying Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; by telephone at (515)281-7360; or by E-mail to glean.coates@iowa.gov.

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C](cont'd)

Waiver of these rules may be sought pursuant to 193—Chapter 5.

These amendments are intended to implement Iowa Code sections 355.3 and 542B.2.

The following amendments are proposed.

ITEM 1. Amend rule **193C—11.2(542B)**, definition of “Retrace,” as follows:

“Retrace” means following along a previously established line or curve to logical termini monumented by corners with permanent monuments as defined in subrule 11.7(1) that are found or placed by the surveyor.

ITEM 2. Amend rule 193C—11.7(542B) as follows:

193C—11.7(542B) Monuments.

11.7(1) Permanent monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The licensed land surveyor shall affix to the top of each monument set by the surveyor a cap of reasonably inert material bearing an embossed or stencil-cut marking of the Iowa license number of the licensed land surveyor. Monuments or marks placed in pavements need not be capped. See rule 193C—11.3(542B).

11.7(2) Monuments found or placed by the surveyor, at a minimum, shall include the following:

a. All United States public land survey corners as defined in 193C—subrule 12.2(1) shall be monumented if said corners are used to calculate, determine, or establish any controlling boundary lines as part of any plat of survey or subdivision plat.

b. All block corners or other lot corners, if there are no blocks, of a recorded subdivision shall be monumented if said corners are used to calculate, determine, or establish any controlling boundary lines as part of any plat of survey or subdivision plat.

c. All end points of road or highway right-of-way line segments shall be monumented if said segment intersects any boundary established during a property survey (as defined in rule 193C—11.2(542B)) or if said segment is interior to a lot, parcel, or tract retraced or established during a property survey (as defined in rule 193C—11.2(542B)). Monumentation of said end points shall not be required if the right-of-way is a constant and parallel offset of the controlling land line/centerline or other controlling line. However, monumentation shall be required at the end points or at logical locations on said controlling line on either side of said lot, parcel, or tract retraced or established during a property survey.

d. All corners as described in paragraphs “a,” “b,” and “c” above and their corresponding monumentation shall be shown on the plat (as defined in rule 193C—11.2(542B)). Calculated locations of these corners shall not be allowed unless the placement of a monument at said corner is impractical, in which case a reference monument shall be established nearby as described in Iowa Code section 355.6(3).

ARC 7431B

**HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DIVISION[605]**

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 17A.3 and 34A.22, the Homeland Security and Emergency Management Division gives Notice of Intended Action to amend Chapter 10, “Enhanced 911 Telephone Systems,” Iowa Administrative Code.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

The Homeland Security and Emergency Management Division proposes to amend subrule 10.3(1), paragraph "a," to reflect changes made to Iowa Code chapter 34A in 2008 Iowa Acts, House File 247. This amendment provides further clarification on membership requirements of Joint E911 Service Boards.

Additionally, the Division proposes to amend subrules 10.15(2) through 10.15(6). The proposed amendments to these subrules reflect changes that have occurred to the Division's organizational structure.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before January 6, 2009. Such written materials should be sent to the E911 Program Manager, Iowa Homeland Security and Emergency Management Division, 7105 N.W. 70th Ave., Camp Dodge, Building W-4, Johnston, Iowa 50319; fax (515)725-3260.

Also, there will be a public hearing on January 8, 2009, at 1 p.m. in the Homeland Security and Emergency Management Division Conference Room on Camp Dodge, Johnston, Iowa, Building W-4, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements such as hearing or mobility impairments should contact the Homeland Security and Emergency Management Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 34A as amended by 2008 Iowa Acts, House File 247.

The following amendments are proposed.

ITEM 1. Amend paragraph **10.3(1)"a"** as follows:

a. Each political subdivision of the state, having a public safety agency serving territory within the E911 service area, is entitled to voting membership. For the purposes of this paragraph, a township that operates a volunteer fire department providing fire protection services to the township, or a city that provides fire protection services through the operation of a volunteer fire department not financed through the operation of city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county.

ITEM 2. Amend subrules 10.15(2) to 10.15(6) as follows:

10.15(2) Request for a hearing shall be made in writing to the state homeland security and emergency management division ~~administration bureau~~ chief of staff within 30 days of the E911 program manager's mailing or serving a decision and shall state the reason(s) for the request and shall be signed by the appropriate authority.

10.15(3) The ~~administration bureau~~ chief of staff shall schedule a hearing within ten working days of receipt of the request for hearing. The ~~administration bureau~~ chief of staff shall preside over the hearing, at which time the appellant may present any evidence, documentation, or other information regarding the matter in dispute.

10.15(4) The ~~administration bureau~~ chief of staff shall issue a ruling regarding the matter within 20 working days of the hearing.

10.15(5) Any party adversely affected by the ~~administration bureau chief's~~ chief of staff's ruling may file a written request for a rehearing within 20 days of issuance of the ruling. A rehearing will be conducted only when additional evidence is available, the evidence is material to the case, and good cause existed for the failure to present the evidence at the initial hearing. The ~~administration bureau~~ chief of staff will schedule a hearing within 20 days after the receipt of the written request. The ~~administration bureau~~ chief of staff shall issue a ruling regarding the matter within 20 working days of the hearing.

10.15(6) Any party adversely affected by the ~~administration bureau chief's~~ chief of staff's ruling may file a written appeal to the administrator of the homeland security and emergency management division. The appeal request shall contain information identifying the appealing party, the ruling being appealed, specific findings or conclusions to which exception is taken, the relief sought, and the grounds

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605](cont'd)

for relief. The administrator shall issue a ruling regarding the matter within 90 days of the hearing. The administrator's ruling constitutes final agency action for purposes of judicial review.

ARC 7416B

NATURAL RESOURCE COMMISSION[571]

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 subsection 455A.5(6), the Natural Resource Commission hereby gives Notice of Intended Action to rescind Chapter 13, "Permits and Easements for Construction and Other Activities on Public Lands and Waters," and adopt new Chapter 13, "Permits and Easements for Construction and Related Activities on Public Lands and Waters," Iowa Administrative Code.

The proposed amendment rescinds the existing chapter and adopts a new one. The new rules clarify the process that the Department of Natural Resources will utilize in evaluating applications for construction permits, easements and leases; describe standards and criteria that must be met to receive a construction permit, easement or lease; establish definitions of sovereign waters; define inspection procedures; impose civil penalties, as allowed by the Iowa Code, for failure to comply with the rules; and amend the appeals process for applications that are denied according to the standards and criteria.

Any interested person may make written suggestions or comments on the proposed amendment on or before January 9, 2009. Such written materials should be directed to Inga Foster, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-6794; or E-mail Inga.Foster@dnr.iowa.gov. Persons who wish to convey their views orally should contact Inga Foster at (515)281-8967 or at Ms. Foster's office on the fourth floor of the Wallace State Office Building.

Also, the Department will hold a public hearing utilizing the Iowa Communications Network (ICN) on January 8, 2009, at 6 p.m. The ICN locations at which the public may participate are as follows:

State Historical Building
600 East Locust
Room 157, Heritage Classroom C
Des Moines, Iowa

Area Education Agency 267 Regional Office
9184B 265th Street
State Room
Clear Lake, Iowa

Iowa Western Community College
2700 College Road
Looft Hall, Room 024
Council Bluffs, Iowa

Keystone Area Education Agency
2310 Chaney Road
Room 2
Dubuque, Iowa

NATURAL RESOURCE COMMISSION[571](cont'd)

Kirkwood Community College
 1816 Lower Muscatine Road
 Room 117
 Iowa City, Iowa

Great Prairie Area Education Agency
 2814 N. Court Street
 Ottumwa, Iowa

Spirit Lake High School
 2701 Hill Avenue
 Distance Learning Center
 Spirit Lake, Iowa

At the public hearing, persons 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 subject of the amendment.

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 of Natural Resources and advise of specific needs.

This amendment is intended to implement Iowa Code sections 461A.4, 461A.5A, 461A.5B, 461A.6, 461A.18, 461A.25 and 462A.3.

The following amendment is proposed.

Rescind 571—Chapter 13 and adopt the following **new** chapter in lieu thereof:

CHAPTER 13
 PERMITS AND EASEMENTS FOR CONSTRUCTION AND RELATED ACTIVITIES
 ON PUBLIC LANDS AND WATERS

571—13.1(455A,461A,462A) Purpose. The commission holds lands and waters under its jurisdiction in public trust and protects the interests of all citizens in these lands and waters. These rules establish procedures and regulate the evaluation and issuance of permits for construction or other related activities that alter the physical characteristics of public lands and waters under the jurisdiction of the commission, including those activities that occur over or under such lands and waters. These rules also establish procedures for issuance of easements to public utilities and political subdivisions for activities that are determined to have a permanent effect on use and enjoyment of public lands and waters under the jurisdiction of the commission.

571—13.2(455A,461A,462A) Affected lands and waters. These rules are applicable to all fee title lands and waters, dedicated lands and waters under the jurisdiction of the commission and managed by the commission for public access to a meandered sovereign lake or meandered sovereign river, meandered sovereign lakes, meandered sovereign rivers, and sovereign islands, except those portions of the Iowa River and the Mississippi River where title has been conveyed to charter cities.

571—13.3(455A,461A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“*Applicant*” means the person who applies for a permit or easement pursuant to these rules.

“*Authorized agent*” means a person, designated by the applicant, who shall be responsible to perform part or all of the proposed activity and who certifies the application according to subrule 13.9(2).

“*Canal*” means a narrow strip of water, artificially made, between two water bodies described in rule 571—13.2(455A,461A,462A).

“*Cantilever access structure*” means a structure constructed for improving the proximity of access to a lake or river, that has a support footing located entirely on littoral or riparian land above the ordinary

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high water line, and that extends from the footing and is completely suspended above the water at normal water elevation with no occupation of the lakebed or riverbed.

“*Channel*” means a narrow body of water that may be natural or artificially made.

“*Charter cities*” means the city of Wapello operating under special charter enacted in 1856; the city of Camanche operating under special charter enacted in 1857; the city of Davenport by chapter 84, Acts of the 47th General Assembly; the cities of Burlington, Clinton, Dubuque, Fort Madison, Keokuk, and Muscatine by chapter 249, Acts of the 51st General Assembly; and the city of Le Claire by chapter 383, Acts of the 58th General Assembly.

“*Commercial boat ramp*” means a boat ramp installed or maintained as part of a business to provide access to a public water body where use of the ramp is available to the general public.

“*Commission*” means the natural resource commission.

“*Department*” means the department of natural resources.

“*Director*” means the director of the department of natural resources or the director’s designee.

“*Easement*” means an easement authorized under Iowa Code section 461A.25.

“*Fee title lands and waters*” means lands and waters for which title is acquired by deed or testamentary devise.

“*Lease*” means a lease authorized under Iowa Code section 461A.25.

“*Littoral land*” means land abutting a lake.

“*Meandered sovereign lakes*” means those lakes which, at the time of the original federal government surveys, were surveyed as navigable and important water bodies and were transferred to the states upon their admission to the union to be transferred or retained by the public in accordance with the laws of the respective states. The state of Iowa holds sovereign title in trust for the benefit of the public to the beds of the following lakes:

<u>County</u>	<u>Lake</u>	
Allamakee	Kains	
	Lansing Big Lake	
	Mud Hen	
	New Albin Big Lake	
	Pickeral	
Buena Vista	Storm	
	North Twin	
Calhoun	South Twin	
	Tow Head	
	Clear	
Cerro Gordo	Dan Green Slough	
Clay	Elk	
	Mud	
	Round	
	Trumbull	
	Silver	
	Dickinson	Center
		Diamond
		East Okoboji
		Hottes
		Jemmerson Slough
Little Spirit		
Lower Gar		
Marble		
Minnewashta		
Pleasant		

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	Prairie
	Silver
	Spirit
	Swan
	Upper Gar
	Welch
	West Okoboji
Emmet	Birge
	Cheerers
	East Swan
	Four Mile
	Grass
	High
	Ingham
	Iowa
	Ryan
	Tuttle
	Twelve Mile
	West Swan
Greene	Goose
Hamilton	Little Wall
Hancock	Crystal
	Eagle
	East Twin
	West Twin
Harrison	Nobles
Johnson	Swan
Kossuth	Burt
	Goose
Monona	Blue
Osceola	Iowa
	Rush
Palo Alto	Five Island
	Lost Island
	Rush
	Silver
	Virgin
Pocahontas	Clear
	Lizard
Pottawattamie	Carter
	Manawa
Sac	Black Hawk
Winnebago	Harmon
	Rice
Woodbury	Browns
Worth	Silver
Wright	Big Wall

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Cornelia
Elm
Morse

“Meandered sovereign rivers” means those rivers which, at the time of the original federal government surveys, were surveyed as navigable and important water bodies and were transferred to the states upon their admission to the union to be transferred or retained by the public in accordance with the laws of the respective states upon their admission to the union. The state of Iowa holds sovereign title in trust for the benefit of the public to the beds of the following rivers:

River and description

The Mississippi River from the south boundary of the state of Minnesota to the north boundary of the state of Missouri.

The Missouri River from the south boundary of the state of South Dakota to the north boundary of the state of Missouri.

The Big Sioux River from the south boundary of the state of Minnesota to the south boundary of the state of South Dakota.

The Des Moines River from the Mississippi River to the west line of Section 7, Township 89 North, Range 32 West, Palo Alto County (west branch) and to the north line of Section 2, Township 95 North, Range 29 North, Kossuth County (east branch).

The Cedar River from the Iowa River to the west line of Section 7, Township 89 North, Range 13 West, Black Hawk County.

The Iowa River from the Mississippi River to the west line of Section 7, Township 81 North, Range 11 West, Iowa County.

The Little Maquoketa River from the Mississippi River to the west line of Section 35, Township 90 North, Range 2 East, Dubuque County.

The Maquoketa River from the Mississippi River to the west line of Section 18, Township 84 North, Range 3 East, Jackson County.

The Nishnabotna River from the north boundary of the state of Missouri to the north line of Section 1, Township 67 North, Range 42 West, Fremont County.

The Raccoon River from the Des Moines River to the west line of Section 30, Township 78 North, Range 25 West, Polk County.

The Skunk River from the Mississippi River to the north line of Section 1, Township 73 North, Range 8 West, Jefferson County.

The Turkey River from the Mississippi River to the west line of Section 30, Township 95 North, Range 7 West, Fayette County.

The Upper Iowa River from the Mississippi River to the west line of Section 28, Township 100 North, Range 4 West, Allamakee County.

The Wapsipinicon River from the Mississippi River to the west line of Section 19, Township 86 North, Range 6 West, Linn County.

“Native stone riprap” means broken stone, dolomite, quartzite or field stone meeting Iowa department of transportation specification 4130, Class D.

“Ordinary high water line” means the boundary between meandered sovereign lakes and rivers, except the Mississippi River, and littoral or riparian property. “Ordinary high water line” is the limit where high water occupies the land so long and continuously as to wrest terrestrial vegetation from the soil or saturate the root zone and destroy its value for agricultural purposes. “Ordinary high water line” is the boundary between upland and wetland as defined by the U.S. Army Corps of Engineers Wetlands Delineation Manual dated January 1987. For Storm Lake and Clear Lake in Cerro Gordo County, the elevation has been established by adjudication. A list of elevations for the ordinary high water lines of

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meandered sovereign lakes, as determined by this definition and applicable court cases, is available on the department's Web site.

"Ordinary high water line of the Mississippi River" means the elevation, as defined by criteria in the Code of Federal Regulations, 33 CFR Part 328.3 (November 13, 1986), promulgated by the U.S. Army Corps of Engineers, where the water exists at or below such elevation 75 percent of the time as shown by water stage records since construction of the locks and dams in the river.

"Permit" means a sovereign lands construction permit issued pursuant to this chapter.

"Permittee" means a person who receives a permit pursuant to these rules, which may also include the authorized agent if designated pursuant to these rules.

"Person" means the same as defined in Iowa Code section 4.1.

"Public boat ramp" means a boat ramp constructed to provide public access from public land to a water body.

"Public lands" means land under the jurisdiction of the commission that is owned by the state or that has been dedicated for public access to a meandered sovereign lake or meandered sovereign river.

"Public waters" means a water body under the jurisdiction of the commission that is owned by the state or that has been dedicated for public access to a meandered sovereign lake or meandered sovereign river.

"Riparian land" means land abutting a river.

"Sovereign island" means an island located within a sovereign meandered lake or a sovereign meandered river that was transferred to the state upon its admission to the union and whose title continues to be retained by the state.

"Standard riprap" means broken stone, dolomite, quartzite, field stone, or broken concrete meeting Iowa department of transportation specification 4130, Class D. Broken concrete shall not have reinforcing materials protruding from the surface of the riprap. Standard riprap shall not include petroleum-based materials.

DIVISION I
PERMITS**571—13.4(455A,461A) Permits required.**

13.4(1) General. No person shall temporarily or permanently place or build any structure or alter the characteristics of public lands or waters under the jurisdiction of or managed by the commission without a permit issued by the department prior to commencement of such activities as provided in the rules of this chapter.

13.4(2) Hazardous conditions. Trees, rock, brush or other natural materials located on sovereign or dedicated lands may be removed by persons without a permit issued pursuant to these rules only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and that the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental condition. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or the removal shall be deemed unauthorized action resulting in damage to state lands and waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard and provide written authorization to proceed or shall require the person to apply for a permit.

13.4(3) Impoundments. These rules do not apply to river impoundments regulated by Iowa Code chapter 462A.

13.4(4) Docks. These rules do not apply to docks regulated by 571—Chapter 16, except as specifically described herein.

571—13.5(455A,461A) Interest in real estate. A permit shall be construed to do no more than give the permit holder a license to alter an area as specifically set forth in the permit. The permit creates no interest, personal or real, in the real estate covered by the permit.

NATURAL RESOURCE COMMISSION[571](cont'd)

571—13.6(455A,461A,462A) Evaluation.

13.6(1) In considering complete applications, the department shall evaluate the impact of the proposed activities on public use and enjoyment of public lands or waters, on the natural resources in the areas within and surrounding the proposed activities, and the department's present and future intended management for the area against the applicant's identified and reasonable need to undertake the proposed activities and the viable alternatives that may exist with respect to the proposed activities.

13.6(2) In no event shall the department issue a permit for activities that:

a. May result in the taking, possession, transport, import, export, processing, selling, buying, transporting, or receiving any species of fish, plants or wildlife appearing on lists referenced in Iowa Code section 481B.5, unless the permittee meets one of the exemptions enumerated in rule 571—77.4(481B).

b. Have not received flood plain permits pursuant to Iowa Code chapter 455B and 567—Chapters 70 through 76, if applicable.

c. May impact littoral or riparian property owners without the express written permission of the littoral or riparian property owner.

d. Do not comply with the standards defined in 571—13.7(455A,461A,462A).

e. Interfere with department obligations or limitations related to federal funds or agreements or other restrictive covenants that may be applicable to the affected area.

f. Allow fill to be placed beyond the ordinary high water line of waters described in rule 571—13.2(455A,461A,462A) for purposes of regaining land lost due to erosion.

13.6(3) The department may withhold a permit when the applicant has not obtained all other required permits or licenses necessary to construct and operate the proposed activity.

571—13.7(455A,461A,462A) Review standards. Department staff shall conduct an environmental review of the application. The following standards shall apply to permits issued under the rules of this chapter:

13.7(1) *Uses of lands and waters.* Development of public lands and public waters permitted by these rules shall be limited to projects that meet all of the following criteria. The projects:

a. Are built to minimally impact the natural resources of public recreational use and navigation on such lands and waters. Specifically, applicants must demonstrate that the project accomplishes all of the following:

(1) Does not negatively impact water quality in or around the proposed permitted area.

(2) Minimizes erosion and sedimentation in or around the proposed area.

(3) Minimizes detrimental impacts to biological and botanical resources in or around the proposed area, including upland, wetland and sensitive areas and unique community structures.

(4) Complies with laws and regulations related to threatened and endangered species, through both federal and state programs.

b. Utilize the smallest amount of public lands and public waters.

c. Do not convert the public lands and public waters to an exclusive or private use.

d. Are the only viable method for conducting the activities, and no viable alternatives to constructing on public lands exist.

In completing the environmental review, different bureaus and staff members of the department will provide input based on law, professional judgment, data and accepted scientific theory.

13.7(2) *Shoreline erosion protection and retaining walls.* Shoreline erosion protection activities may be permitted if the activities are in compliance with 571—13.6(455A,461A,462A) and the following additional standards:

a. Shoreline erosion protection activities on meandered sovereign lakes shall be limited to placement of native stone riprap, extending to a maximum of 4 feet horizontally within or below the ordinary high water line elevation contour line. Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall be placed at or above the ordinary high water line. When such retaining structures are placed at the ordinary high water line, they must be faced with native stone riprap.

NATURAL RESOURCE COMMISSION[571](cont'd)

b. Shoreline erosion protection activities on meandered sovereign rivers, except the Mississippi River, shall be limited to placement of approved in-stream erosion control structures or native stone or standard riprap. Riprap shall extend riverward from the ordinary high water line at a slope of 2 feet horizontal to 1 foot vertical (2:1). Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the ordinary high water line. When such retaining structures are placed at the ordinary high water line, they must be faced with riprap.

c. Shoreline erosion protection activities on the Mississippi River shall be limited to placement of approved in-stream erosion control structures or native stone riprap. Riprap shall extend riverward from the ordinary high water line at a slope of 2 feet horizontal to 1 foot vertical (2:1). Placement of earth fill within the ordinary high water line shall not be allowed. Retaining walls, sheet piling, gabions or other retaining structures shall not be placed within the ordinary high water line. When such retaining structures are placed at the ordinary high water line, they must be faced with native stone riprap.

d. Retaining walls on all meandered sovereign lakes and meandered sovereign rivers. The landowner shall maintain the wall system at all times and take corrective measures to eliminate any nuisance condition, repair deterioration of the structure, eliminate erosion around the structure, and repair damage to the structure caused by the action of the water or ice. When a retaining wall or other structure placed on the shoreline prevents the public from traversing the shoreline, the landowner shall grant the public a license to walk from the landowner's property within 15 feet of the top of the wall or structure for the purpose of traversing the shoreline.

e. Notwithstanding the prohibitions in this subrule, nothing in this subrule shall prohibit activities that would be part of habitat development or natural resources mitigation projects constructed or approved by a political subdivision of the state and subject to review under these rules.

13.7(3) *Quality of the applicant.* Applicants or authorized agents who have a current violation for another project are not eligible for consideration for a permit under these rules unless and until all other noncompliant projects have been remediated and any enforcement actions related to the same have been resolved or satisfied.

13.7(4) *Cantilever access structures.* Permanent cantilever access structures that lawfully exist and are lawfully permitted under prior sovereign lands construction permit rules as of [insert the effective date of these rules] shall be deemed lawfully permitted under these rules. All cantilever access structures that are not lawfully installed prior to [insert the effective date of these rules] or are installed after [insert the effective date of these rules] shall be regulated as docks by 571—Chapter 16.

13.7(5) *Beaches, canals and channels.* Permits may be granted to maintain existing beaches, canals and channels lawfully installed as of [insert the effective date of these rules] to ensure the navigation and safety of those existing lawful beaches, canals and channels. The department shall not permit new beaches, canals or artificial channels or expansion of existing beaches, canals or artificial channels, except that the department may permit new beaches, canals and artificial channels and expansions of existing beaches, canals, and artificial channels when such establishment or expansion would be under the jurisdiction of a political subdivision of the state, would be accomplished to provide public access to the water, and would meet the review standards established by these rules.

13.7(6) *Stationary blinds.* All stationary blinds installed on lands and waters described in rule 571—13.2(455A,461A,462A) are subject to regulation by rule 571—51.6(481A) and are not subject to the requirements of these rules.

571—13.8(455A,461A) Leases or easements as a condition of permits. If a permitted structure or its use will have a continuing impact on the availability or desirability of public lands or public waters, the permit shall be conditioned on the requirement that the permittee obtain a lease or easement under Division II of this chapter. However, a lease or easement shall not be required for proposed activities that are wholly within the scope of the permittee's littoral or riparian rights.

571—13.9(455A,461A,462A) Permit application. Applicants shall apply for permits using an application form provided by the department. Applicants shall state the need for the proposed

NATURAL RESOURCE COMMISSION[571](cont'd)

construction or use, the availability of alternatives, and the measures proposed to prevent, minimize or mitigate adverse impacts to natural resources or public use of the affected area. The department reserves the right to refuse to review incomplete applications. Each application, including all amendments, shall be signed by the applicant and authorized agent if one shall be so appointed by the applicant. The applicant's signature shall acknowledge that the application is accurate and made in good faith.

13.9(1) For purposes of this rule, the department will deem an application complete if the application meets all of the following criteria. The application:

- a.* Is provided on the department's form, and all fields are completed and legible;
- b.* Includes the name(s), mailing address and telephone number of the applicant(s) and authorized agent(s), if applicable;
- c.* Describes the proposed activity, including:
 - (1) Physical address and legal description of the location where the proposed activity is to occur; a written description of existing natural and man-made structures and features; an aerial photograph, if possible or available; and a ground-level photograph(s) showing the area where the activity is proposed to occur;
 - (2) Schematic or design plans, including cross-sections and plan views, that accurately and clearly depict the proposed activities;
 - (3) Description of the construction methods used to complete the project, the methods used to transport material to the site, and the type and amount of material to be used;
 - (4) Description of measures proposed to prevent or minimize adverse impacts on the property in the proposed area;
 - (5) Description of any borrows or disposal sites, including the location of any borrows or disposal sites and the type and amount of material to be borrowed or disposed of in them;
- d.* Includes identification of the ordinary high water line, if the proposed activities are in or near a meandered sovereign lake or meandered sovereign river;
- e.* Describes alternative plans to undertake the activity that may be available to the applicant;
- f.* Identifies the need for the proposed activity in the proposed project area;
- g.* Provides a statement of consent for the department to enter the property during the term of the proposed permit.

13.9(2) For applications that provide for an authorized agent to perform part or all of the proposed activities, the following additional information shall be required to constitute a complete application:

- a.* Statement signed by authorized agent and applicant;
- b.* Statement signed by the authorized agent acknowledging that the authorized agent is aware of such designation and is responsible to complete the identified work; and
- c.* Description of the work to be completed by the authorized agent.

571—13.10(455A,461A) Additional information or analysis required for permit review.

13.10(1) The director may require applicants to provide additional information, at the applicant's sole cost, necessary to complete review of the application, including but not limited to study of alternatives to construction on public lands and waters, social and environmental impacts of the proposed activities, professional surveys to establish the social and environmental impacts of the proposed activities, professional land surveys to delineate or show real property boundaries and other characteristics, and a professional real estate appraisal of the value that a permit may convey.

13.10(2) If the applicant does not respond to a request for additional information within 90 days of such request being made by the department, the department may withdraw the application from consideration and the applicant must reapply for the permit.

13.10(3) When the director determines that the proposed activity will significantly affect the public interest, the director may hold a public meeting in the vicinity of the proposed activity. When a public meeting is held, the director shall consider public input in conjunction with other information collected or provided as part of the application review when acting on a permit application.

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571—13.11(455A,461A) Permit issued or denied. The department shall promptly review all permit applications, and the director shall issue a permit or deny all or part of an application upon completion of review. A permit may include specified conditions denying the application in part and the reasons for the conditions. The denial of a permit may include a proposed removal order. A permit denial decision and a permit that denies an application in part shall include notice of the applicant's right to an administrative appeal including a contested case under procedures in 571—Chapter 7. The applicant's request for a contested case may include a request for a variance or waiver under the provisions of Iowa Code section 17A.9A and 571—Chapter 11. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7.

571—13.12(455A,461A) Authorized agent. When an authorized agent is designated on the application for a permit and acknowledges the same, that authorized agent shall be responsible in the same manner as the permittee to comply with the terms of the permit issued.

571—13.13(455A,461A) Inspection. The department may inspect the location during the term of the permit to ensure the permitted activities comply with the terms of the permit. The permittee shall grant the department the right to access the permitted activities for purposes of inspecting the permitted activities during the term of the permit. If the permittee denies permission for entry, the department may obtain an order from the Iowa district court for the county in which the permitted activities or the majority of the permitted activities occur, as needed to enable the department to carry out its inspection duty. The intent of the inspection is to evaluate compliance with permit conditions and the impact to the natural resources and the public's recreational use of the area.

571—13.14(455A,461A) Additional information or analysis required during term of the permit. The director may require permittees to provide additional information, at the permittee's sole cost, necessary to ensure that the permittee is complying with the terms of the permit, including but not limited to social and environmental impacts of the activities, professional surveys to establish the social and environmental impacts of the activities, professional land surveys to delineate or show real property boundaries and other characteristics, and a professional real estate appraisal of the value that a permit may convey or has conveyed.

571—13.15(455A,461A) Unauthorized construction; citation; notice; proposed removal order.

13.15(1) Violations.

a. A person shall be in violation of these rules and Iowa Code section 461A.4 in the event the person does any of the following:

(1) Performs construction on or undertakes other activities that alter the physical characteristics of public lands or waters under the jurisdiction of or managed by the commission without a permit required by these rules;

(2) Performs such work out of conformance with specific requirements enumerated in a permit issued in accordance with these rules; or

(3) Fails to comply with an order of the commission under these rules.

b. Each day of a violation shall be considered a separate offense.

13.15(2) Types of enforcement actions. A person who violates these rules shall be subject to either of the following:

a. Criminal enforcement. A peace officer of the state may issue a citation for each offense. A person who is found guilty of violating these rules shall be charged with a simple misdemeanor for each violation.

b. Civil enforcement. A civil penalty may be assessed in conformance with Iowa Code section 461A.5B and rule 571—13.17(455A,461A). Written notice of the violation(s) shall be given to the person against whom disciplinary action is being considered. The notice shall state the informal and formal procedures available for determining the matter. If agreement as to appropriate disciplinary sanction, if any, can be reached between the person against whom disciplinary action is being considered and the

NATURAL RESOURCE COMMISSION[571](cont'd)

director, a written stipulation and settlement between the department and the person shall be entered. Such a settlement shall take into account how the corrective actions described in subrule 13.15(3) shall be accomplished. In addition, the stipulation and settlement shall recite the basic facts and violations alleged, any facts brought forth by the person, and the reasons for the particular sanctions imposed. If an agreement as to appropriate disciplinary action, if any, cannot be reached, the director may issue an administrative order as described in rule 571—13.17(455A,461A).

13.15(3) Actions to be taken upon receipt of citation or notice of violation. A person who has violated these rules shall cease the specified unauthorized activity upon receipt of a citation or as may be stipulated in the notice of violation. The notice of violation or a written notice accompanying the citation from the department shall require the person to take one or more of the following actions within a specified time:

- a. Apply for a permit to authorize completion of construction or maintenance and use, as applicable;
- b. Remove materials and restore the affected area to the condition that existed before commencement of the unauthorized activity;
- c. Remediate the affected area in a manner and according to a plan approved by the department. The department may enforce such a remediation at the expense of the permittee, adjacent landowner or culpable party.

571—13.16(455A,461A) Removal orders. If the violation includes the unauthorized placement of materials or personal property on the public lands or public waters under the jurisdiction of the commission and the person, who may include a permittee or authorized agent but may not, fails to comply with the action required by the notice, the director may cause a proposed removal order to be issued to the person responsible for such placement. The proposed removal order shall specify the removal action required and include notice of the right to an administrative appeal including a contested case hearing under procedures in 571—Chapter 7. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7. If there is no appeal from a proposed decision that includes a removal requirement, the proposed decision shall be presented to the director for review and adoption. A removal order approved by the director shall constitute final agency action under Iowa Code sections 461A.4 and 461A.5A and may be enforced through an original action in equity filed in a district court of the state by the attorney general on behalf of the department and the commission.

571—13.17(455A,461A) Civil penalties. The department may assess a civil penalty of up to \$5,000 per offense for each violation of these rules, provided the department does not utilize a criminal citation for a violation. Each day the violation continues shall be a separate offense or violation. Penalties shall be assessed through issuance of an administrative order of the director which recites the facts and the legal requirements that have been violated and a general rationale for the prescribed fines. The order may include cumulative penalties of up to \$10,000 per day for multiple violations. The order also may be combined with any other order authorized by statute for mandatory or prohibitory injunctive conditions and is subject to normal contested case and appellate review under procedures in 571—Chapter 7. The proposed decision in a contested case may be appealed to the commission under 571—Chapter 7. The commission may refer orders that include singular or cumulative penalties over \$10,000 to the attorney general's office.

571—13.18(455A,461A) Report of completion. Once an approved activity is completed, the permittee shall notify the department contact person identified in the permit of such completion through regular mail or E-mail. The permittee shall include with such notice a ground-level photograph(s) of the completed project. The activity shall be subject to final approval before the department determines that the conditions of the permit have been met.

571—13.19(455A,461A) Final inspection. Once the permittee notifies the department pursuant to rule 571—13.18(455A,461A), the department shall inspect the permitted area to ensure that the permittee has complied with the terms of the permit. Such inspection shall occur within 60 days of the department's

NATURAL RESOURCE COMMISSION[571](cont'd)

receipt of the notice provided pursuant to rule 571—13.18(455A,461A). In the event the department does not provide final inspection within 60 days of the department's receipt of the notice provided pursuant to rule 571—13.18(455A,461A), the permittee shall be deemed compliant and the permit shall expire. The intent of this inspection is to evaluate compliance with permit conditions and the impacts to the natural resources and the public's recreational use of the area.

571—13.20(455A,461A) Permit extensions. Prior to the expiration of a permit, a permittee or an authorized agent may submit an application to the department for an extension of the permit on a form provided by the department. In evaluating whether to grant the extension, the department will consider the work completed, the work to be performed, the extent to which the permit extension is needed and the extent to which the permittee has made efforts to meet the obligations of the original permit. The department reserves the right to modify the conditions of a permit as part of any extension. An extension granted by this rule is not a project modification.

571—13.21(455A,461A) Project modifications. If projects are modified to the extent that the additional or modified work would not be allowed within the original permit, the permittee must apply for a new permit for the additional or modified work.

571—13.22(455A,461A) Transferability. Permits are transferable only upon written approval of the department and only after the department is satisfied that the permitted activities will not change and the new permittee would be eligible to receive a permit under subrule 13.7(3).

571—13.23 to 13.50 Reserved.

DIVISION II
LEASES AND EASEMENTS

571—13.51(455A,461A) Leases. Where a permitted structure or related activity will have a continuing impact on the availability or desirability of public lands or public waters or exceeds the scope of littoral or riparian rights, the permittee must enter into a lease covering the area affected by the construction. Fees for leases shall be determined by 571—Chapter 18 or other methods approved by the commission and executed pursuant to Iowa Code section 461A.25. Requests for leases shall be made on the form and shall include the information required by rule 571—13.9(455A,461A,462A) under Division I of this chapter. The department may grant a lease if, in the department's sole discretion, the lease will not impair the state's intended use of the area during the term of the lease; the lease will not negatively impact a federal interest, including related deed restrictions, related to the area during the term of the lease; and the lease will not result in an exclusive use.

571—13.52(455A,461A) Easements. The director may grant an easement to political subdivisions and utility companies pursuant to Iowa Code section 461A.25, provided the following terms are met:

13.52(1) Requests for easements shall be made on the form and shall include the information required by rule 571—13.9(455A,461A,462A) under Division I of this chapter. The department may grant an easement if, in the department's sole discretion, the easement will not impair the state's intended use of the area during the term of the easement or the easement will not negatively impact a federal interest, including related deed restrictions, related to the area during the term of the agreement.

13.52(2) The value of an easement shall be determined by the director based upon a real estate appraisal or other method approved by the commission, as evidenced in the meeting minutes thereof. In addition to fees for easements, the director may assess the applicant for the reasonable transaction costs associated with the issuing of an easement including the cost of appraisals, other methods of establishing values, and land surveys. In determining the fee for an easement, the department may consider the value the proposed activity may contribute to the department's management of the affected property.

NATURAL RESOURCE COMMISSION[571](cont'd)

13.52(3) Recipients of any easements granted pursuant to this rule shall assume liability for structures installed pursuant to such easement and shall comply with the standards enumerated in rule 571—13.7(455A,461A,462A), as applicable, in the sole discretion of the department.

571—13.53(455A,461A) Appeals. The department and the commission are under no legal obligation to provide any person a legal interest in property under the jurisdiction of the commission. An applicant may appeal to the director a decision of the department regarding leases and easements and request that the director reconsider a condition of an easement or a lease or a denial of an easement or a lease. The determination of the director shall be final agency action.

These rules are intended to implement Iowa Code sections 455A.5, 461A.4, 461A.5A, 461A.5B, 461A.6, 461A.18, 461A.25 and 462A.3.

ARC 7423B**PHARMACY BOARD[657]****Notice of Termination**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on September 24, 2008, as **ARC 7191B**, proposing to amend Chapter 13, "Sterile Compounding Practices," Iowa Administrative Code.

The Notice proposed to specify the requirements for a supervising pharmacist to perform in-process checks of compounding functions performed by a nonpharmacist and the requirements for documentation of that verification.

The Board is terminating the rule making commenced in **ARC 7191B** based on comments and objections received from members of the public and the Iowa Pharmacy Association. The Association's comments were submitted on behalf of Iowa pharmacists who communicated to the Association their concerns regarding the proposed rule making.

ARC 7442B**PROFESSIONAL LICENSURE DIVISION[645]****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 147.76, the Board of Physical and Occupational Therapy hereby gives Notice of Intended Action to amend Chapter 201, "Practice of Physical Therapists and Physical Therapist Assistants," Chapter 206, "Licensure of Occupational Therapists and Occupational Therapy Assistants," and Chapter 208, "Practice of Occupational Therapists and Occupational Therapy Assistants," Iowa Administrative Code.

These proposed amendments would update practice requirements for physical and occupational therapy licensure.

Any interested person may make written comments on the proposed amendments no later than January 6, 2009, addressed to Judy Manning, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail jmanning@idph.state.ia.us.

A public hearing will be held on January 6, 2009, from 10 to 10:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A, 148B and 272C. The following amendments are proposed.

ITEM 1. Adopt the following **new** rule 645—201.3(147,148A):

645—201.3(147,148A) Prohibited agreements and undue influence.

201.3(1) Definitions.

“*Kickback*” includes, but is not limited to, monetary and nonmonetary inducements or favors, payments or other compensation made directly or indirectly by a prescriber of physical therapy services for use by a physical therapist.

“*Prohibited agreement*” means a direct or indirect agreement or arrangement between a prescriber of physical therapy services and a physical therapist providing a premium, “kickback,” fee-splitting, or special charge as compensation or inducement for placement of business or solicitation of patronage to the physical therapist.

201.3(2) Undue influence.

a. A physical therapist shall not accept professional employment or share or receive compensation in any form, including wages or commissions, arising out of or incidental to the physical therapist’s professional activities from a prescriber of physical therapy services or any other person or partnership or corporation in which a prescriber of physical therapy services has a proprietary or beneficial interest sufficient to permit the prescriber of physical therapy services to directly or indirectly exercise supervision or control over the physical therapist in the physical therapist’s professional responsibilities and duties.

b. The prohibition in paragraph “a” shall not apply to a physical therapist until January 1, 2011.

201.3(3) Freedom of choice. A physical therapist shall not directly or indirectly enter into any agreement or arrangement which negates a patient’s freedom of choice of physical therapy services.

201.3(4) Prohibited agreements. A physical therapist shall not participate in a prohibited agreement with any prescriber of physical therapy services in exchange for recommending, promoting, accepting, or promising to accept the professional physical therapy services of a physical therapist.

201.3(5) Lease agreements. A physical therapist shall not lease space under any of the following conditions:

a. The space would be leased from a prescriber of physical therapy services or a group, corporation, association, or organization of such prescribers on a percentage-of-income or volume basis;

b. The space would be leased from a group, corporation, association, or organization in which a prescriber of physical therapy services has majority control or has directly or indirectly a majority beneficial or proprietary interest on a percentage-of-income basis; or

c. The rent is not reasonable according to commonly accepted standards in the community in which the physical therapy practice will be located.

ITEM 2. Amend rule **645—206.1(147)**, definition of “Occupational therapy screening,” as follows:

“*Occupational therapy screening*” means a brief process which is directed by an occupational therapist in order for the occupational therapist to render a decision as to whether the individual warrants further, in-depth evaluation and which includes:

1. Assessment of the medical and social history of an individual;

2. Observations related by that individual’s caregivers; or

3. Observations or nonstandardized tests, or both, administered to an individual by the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist.

Nothing in this definition shall be construed to prohibit licensed occupational therapists and occupational therapy assistants who work in preschools or school settings from providing short-term interventions, ~~not to exceed four months~~, to children prior to an evaluation, not to exceed 16 sessions per concern per school year, in accordance with state and federal educational policy.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Adopt the following **new** rule 645—208.3(147,148B):

645—208.3(147, 148B) Prohibited agreements and undue influence.

208.3(1) Definitions.

“Kickback” includes, but is not limited to, monetary and nonmonetary inducements or favors, payments or other compensation made directly or indirectly by a prescriber of occupational therapy services for use by an occupational therapist.

“Prohibited agreement” means a direct or indirect agreement or arrangement between a prescriber of occupational therapy services and an occupational therapist providing a premium, “kickback,” fee-splitting, or special charge as compensation or inducement for placement of business or solicitation of patronage to the occupational therapist.

208.3(2) Undue influence.

a. An occupational therapist shall not accept professional employment or share or receive compensation in any form, including wages or commissions, arising out of or incidental to the occupational therapist’s professional activities from a prescriber of occupational therapy services or any other person or partnership or corporation in which a prescriber of occupational therapy services has a proprietary or beneficial interest sufficient to permit the prescriber of occupational therapy services to directly or indirectly exercise supervision or control over the occupational therapist in the occupational therapist’s professional responsibilities and duties.

b. The prohibition in paragraph “a” shall not apply to an occupational therapist until January 1, 2011.

208.3(3) Freedom of choice. An occupational therapist shall not directly or indirectly enter into any agreement or arrangement which negates a patient’s freedom of choice of occupational therapy services.

208.3(4) Prohibited agreements. An occupational therapist shall not participate in a prohibited agreement with any prescriber of occupational therapy services in exchange for recommending, promoting, accepting, or promising to accept the professional occupational therapy services of an occupational therapist.

208.3(5) Lease agreements. An occupational therapist shall not lease space under any of the following conditions:

a. The space would be leased from a prescriber of occupational therapy services or a group, corporation, association, or organization of such prescribers on a percentage-of-income or volume basis;

b. The space would be leased from a group, corporation, association, or organization in which a prescriber of occupational therapy services has majority control or has directly or indirectly a majority beneficial or proprietary interest on a percentage-of-income basis; or

c. The rent is not reasonable according to commonly accepted standards in the community in which the occupational therapy practice will be located.

ARC 7407B

PROFESSIONAL LICENSURE DIVISION[645]

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 147.76, the Board of Sign Language Interpreters and Transliterators hereby gives Notice of Intended Action to amend Chapter 361, “Licensure of Sign Language Interpreters and Transliterators,” and Chapter 362, “Continuing Education for Sign Language Interpreters and Transliterators,” Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The proposed amendments set a date range in which certain requirements apply for temporary license holders and modify other rules to ensure consistency between temporary licensure and permanent licensure requirements to enhance licensees' understanding of requirements.

Any interested person may make written comments on the proposed amendments no later than January 6, 2009, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on January 6, 2009, from 9 to 9:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 154E and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 361.2(2) as follows:

361.2(2) Licensees who were issued their licenses within six months prior to the renewal shall not be required to renew their licenses until the renewal ~~month~~ cycle two years later.

ITEM 2. Amend subrule 361.2(6), introductory paragraph, as follows:

361.2(6) Beginning July 1, 2007, and ending June 30, 2009, a temporary license holder shall be required to:

ITEM 3. Renumber subrules **362.2(3)** to **362.2(5)** as **362.2(4)** to **362.2(6)**.

ITEM 4. Adopt the following new subrule 362.2(3):

362.2(3) Requirements for temporary license holders. Prior to July 1, 2009, the temporary license holder shall comply with requirements specified in 645—subrule 361.2(6). Beginning July 1, 2009, the temporary license holder shall comply with continuing education requirements at the time of each license renewal including the first renewal of the license. Temporary license holders shall be required to obtain 40 hours as set forth in subparagraph 362.3(2)“a”(2) and paragraph 362.3(2)“b” for each subsequent renewal biennium beginning July 1, 2009. The temporary license holder may use only continuing education hours acquired during the current biennial license period for renewal.

ITEM 5. Amend subparagraph **362.3(2)“a”(2)** as follows:

(2) Obtained in content areas that conform to the content areas specified in the Registry of Interpreters for the Deaf (RID) Certification Maintenance Program Standards and Criteria for Approved Sponsors, revised edition, June 2004, with the exception of the number of CEUs required which is defined in 362.3(2)“b.” RID activity categories of independent study or teaching an academic class are not professional study categories that can be claimed for credit by temporary license holders.

ARC 7429B

PUBLIC HEALTH DEPARTMENT[641]

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 105.4 (2007 Iowa Acts, chapter 198, section 4), the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

These proposed rules describe the continuing education requirements for licensees covered under Iowa Code chapter 105. These rules also describe the standards governing the criteria for continuing

PUBLIC HEALTH DEPARTMENT[641](cont'd)

education activities; the procedure for auditing licensees' continuing education reports; the grounds for exempting continuing education requirements; and the grounds for extending the time in which a licensee may fulfill the continuing education requirements.

Any interested person may make written comments or suggestions on the proposed rules on or before January 6, 2009. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-4529 or by E-mail to choulson@idph.state.ia.us.

Also, there will be a public hearing on January 6, 2009, from 10 a.m. to 2 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

The hearing will originate from the Iowa Communications Network (ICN) Room on the sixth floor of the Lucas State Office Building and will be accessible over the ICN from the following additional locations:

- Sioux City Public Library, 529 Pierce Street, Sioux City;
- Council Bluffs Public Library, 400 Willow Avenue, Council Bluffs;
- Waterloo Public Library, 415 Commercial Street, Waterloo;
- Ottumwa Public Library, 102 West 4th Street, Ottumwa;
- Bettendorf Public Library, 2950 Learning Campus Drive, Bettendorf.

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

These rules are intended to implement Iowa Code chapter 105.

The following amendment is proposed.

Adopt the following **new** 641—Chapter 30:

CHAPTER 30
CONTINUING EDUCATION FOR PLUMBING AND
MECHANICAL SYSTEMS PROFESSIONALS

641—30.1(105) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the plumbing and mechanical systems examining board as established pursuant to Iowa Code section 105.3.

“*Continuing education*” means planned, organized learning acts acquired during licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and in completion of an approved continuing education activity.

“*License*” means a license to work in a specific discipline covered under Iowa Code chapter 105.

“*Licensee*” means any person licensed to work in a specific discipline covered under Iowa Code chapter 105.

641—30.2(105) Continuing education requirements.

30.2(1) The biennial continuing education compliance period shall begin on the license issue date and end two years later on the license expiration date.

30.2(2) Each biennium:

a. A master or journey licensee shall be required to complete a minimum of 8 hours of board-approved continuing education, of which 4 hours shall be in the prescribed practice discipline.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

A minimum of 2 hours of the 8 hours shall be in the content area of the applicable Iowa plumbing or mechanical codes, and 2 hours of the 8 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

b. A master or journey licensee holding licenses in multiple disciplines shall obtain a minimum of 14 hours of board-approved continuing education, of which 8 hours shall be in any of the prescribed practice disciplines. A minimum of 2 hours of the 14 hours shall be in each of the content areas of the applicable Iowa plumbing code, Iowa mechanical code, or both and 4 hours of the 14 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

30.2(3) It is the responsibility of each licensee to finance the cost of continuing education.

30.2(4) A licensee who is a presenter of a board-approved continuing education program may receive credit once per biennium for the presentation of the program. The licensee may receive the same number of hours granted the attendees.

641—30.3(105) Standards for continuing education programs/activities. A program/activity is appropriate for continuing education credit if the program/activity meets all of the following criteria:

30.3(1) Is board approved;

30.3(2) Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

30.3(3) Pertains to subject matters which integrally relate to the practice of the discipline;

30.3(4) Is conducted by individuals who have specialized education, training, or experience by reason of which said individuals should be considered qualified concerning the subject matter of the program;

30.3(5) Fulfills stated program goals, objectives, or both;

30.3(6) Provides proof of attendance to licensees in attendance, including:

a. Date, location, course title, presenter(s), and board-approved course identification number;

b. Number of program contact hours;

c. Certificate of completion or evidence of successful completion of the course provided by the course sponsor; and

30.3(7) Covers product knowledge, methods, and systems of one or more of the following:

a. The theory and technique for a specific discipline.

b. The current Iowa plumbing code, Iowa mechanical code, or both.

c. The standards comprising the current Iowa Occupational Safety and Health Act.

641—30.4(105) Audit of continuing education report. The board may conduct audits to review compliance with continuing education requirements.

30.4(1) For a period of two years after the conclusion of each applicable biennium, all licensees shall retain, preserve, and provide the board, upon request, the following information:

a. Date and location of course, board-approved course identification number, course title, course description, course outline, course schedule, names and qualifications of instructors/speakers, and method of presentation; or a program brochure which includes all the information required in this paragraph;

b. Number of contact hours for program/activity attended; and

c. Individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor.

30.4(2) Upon board request, a licensee must submit all information set forth in subrule 30.4(1) within 30 calendar days following the board's request. The board may grant extensions on an individual basis.

30.4(3) If the submitted materials are incomplete or unsatisfactory and the board determines that the deficiency was the result of good-faith conduct on the part of the licensee, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. A licensee must complete the continuing education hours and submit documentation establishing completion of the required make-up continuing education hours to the board within 120 calendar days from the date of the board's finding of good-faith conduct.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

30.4(4) A licensee's failure to provide the board with an accurate mailing address shall provide no excusable ground for noncompliance with any requirement set forth in this rule.

30.4(5) A licensee who is the subject of an audit shall be ineligible for license renewal until the completion of the audit.

641—30.5(105) Continuing education exemptions.

30.5(1) Automatic exemptions. A licensee shall be exempt from the continuing education requirement during the license biennium when that person:

- a. Served honorably on active duty in the military service; or
- b. Resided in another state or district having continuing education requirements for the discipline and met all requirements of that state or district for practice therein; or
- c. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or
- d. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

30.5(2) Permissive exemptions. The board may, in cases involving exceptional hardship or extenuating circumstances, grant an exemption from some or all of the continuing education requirements.

a. A licensee seeking a permissive exemption shall apply to the board, in such form as the board may prescribe.

b. A licensee seeking a permissive exemption shall be required to provide all such documentary evidence as the board may request to establish the exceptional hardship or extenuating circumstances.

c. In the event of a claimed physical or mental disability or illness, the board may request information from a licensed health care professional who can attest to the existence of any such disability or illness.

d. A licensee who applies for a permissive exemption shall be notified in writing of the board's decision.

e. In granting an exemption, the board may impose any such additional conditions on the exemption including, but not limited to, the requirement that the licensee make up a portion of the continuing education requirements.

f. In lieu of granting a full or partial exemption, the board may grant the licensee an extension of time in which to complete the continuing education requirements.

g. The granting of an exemption shall not prohibit a licensee from seeking, or the board from granting, an exemption in a subsequent biennial continuing educational compliance period(s).

h. Permissive exemptions shall only be granted in the most exceptional and extraordinary of circumstances.

641—30.6(105) Continuing education extensions. The board may, in individual cases involving hardship or extenuating circumstances, grant an extension of time within which to fulfill the minimum continuing education requirements.

30.6(1) Hardship or extenuating circumstances include documented circumstances beyond the control of the licensee which prevent attendance at required activities.

30.6(2) All requests for extension must be made prior to the license expiration date.

These rules are intended to implement Iowa Code chapters 105 and 272C.

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 James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for December is 5.75%.

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 Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective December 9, 2008, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum 1.10%
32-89 days	Minimum 1.30%
90-179 days	Minimum 1.00%
180-364 days	Minimum 1.35%
One year to 397 days	Minimum 1.75%
More than 397 days	Minimum 2.05%

These are minimum rates only. The one year and less 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 7420B**UTILITIES DIVISION[199]****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 Iowa Code sections 17A.4, 476.1, 476.2, and 476.8, the Utilities Board (Board) gives notice that on November 21, 2008, the Board issued an order in Docket No. RMU-08-8, In re: Amendments to Extension Rules for Natural Gas and Electric Plant Additions, Gas Distribution Main Extensions, and Electric Line Extensions [199 IAC 19.3(10) and 20.3(13)], "Order Commencing Rule Making," which proposes revisions to the Board's gas and electric extension rules. Specifically, the Board proposes to revise the definition for an "advance for construction" and to eliminate the option for customers to choose either a refundable advance for construction or nonrefundable contribution in aid of construction when required to pay for natural gas or electric plant additions, natural gas distribution main extensions, or electric line extensions.

Under current rules, the calculation for a refundable "advance for construction" found in 199 IAC 19.3(1)"a" and 20.3(13)"a" includes a gross-up for the income tax effect of the customer's payment but does not include a calculation of the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability. The calculation for a "contribution in aid of construction" includes the present value adjustment.

The Board proposes to amend the calculation of an "advance for construction" to include the present value calculation to make it the same as the calculation for a nonrefundable contribution in aid of construction. The amendments, if adopted, will reduce the amount a customer has to pay for an advance for construction under the Board's rules. The proposed amendments do not change the requirements for refunds to customers that pay an advance where appropriate under the Board's rules. The end result of the amendments will be that the tax effect for both advances for construction and contributions in aid of construction will be the same, so there will be no choice for the customer to make between a refundable advance and a nonrefundable contribution. Consistent with the definition change, the Board is proposing to amend its rules to remove the customer choice so that the customer will pay the lower calculated amount and still be eligible for refunds where applicable under the rules.

The Board has granted waivers of the extension rules to MidAmerican Energy Company (MidAmerican), Docket No. WRU-08-31-156, and Interstate Power and Light Company (IPL), Docket No. WRU-08-35-150, to make the same change to the definition of an advance for construction and to remove the customer's payment option as reflected in the proposed amendments. Since the waivers to MidAmerican and IPL significantly reduce the number of customers affected by the current rule, the Board considers it reasonable to amend the rules for all customers to be consistent with the waivers. This will also avoid any confusion where the service between utilities overlaps.

The specific provisions where the amendments are being proposed are: 199 IAC 19.3(10)"a," 19.3(10)"b," 19.3(10)"c," 20.3(13)"a," 20.3(13)"b," and 20.3(13)"c"(2). The order commencing the rule making can be found on the Board's Web site, www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)"a" and "b," any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 6, 2009, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author's name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

UTILITIES DIVISION[199](cont'd)

No oral presentation is scheduled at this time. Pursuant to Iowa Code section 17A.4(1)“b,” an oral presentation may be requested, or the Board on its own motion after reviewing the statements may determine that an oral presentation should be scheduled.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.8.

The following amendments are proposed.

ITEM 1. Amend paragraph **19.3(10)“a,”** definition of “Advance for construction,” as follows:

“*Advance for construction,*” as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for a plant addition or a distribution main extension, portions of which may be refunded depending on any subsequent service line attached to the plant addition or distribution main extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining the tax liability.

ITEM 2. Amend paragraph **19.3(10)“b”** as follows:

b. Plant additions. The utility shall provide all gas plant at its cost and expense without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction ~~or a nonrefundable contribution in aid of construction~~ by the customer to make plant additions shall be available for board inspection. ~~The utility shall allow the customer or developer, at the customer’s or developer’s option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction.~~

ITEM 3. Amend paragraph **19.3(10)“c”** as follows:

c. Distribution main extensions. Where the customer will attach to the distribution main extension within the agreed-upon attachment period after completion of the distribution main extension, the following shall apply:

(1) The utility shall finance and make the distribution main extension for a customer without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ if the estimated construction costs to provide a distribution main extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue calculation, to determine what, if any, advance for construction ~~or nonrefundable contribution in aid of construction~~ is required of the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. Whether or not the construction of the distribution main extension would otherwise require a payment from a customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide a distribution main extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for a distribution main extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. ~~The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction.~~ The utility may use a feasibility model to determine whether an advance for construction ~~or a nonrefundable contribution in aid of construction~~ is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility’s tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the distribution main extension, the applicant for the distribution main extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost ~~or a nonrefundable contribution in aid of~~

UTILITIES DIVISION[199](cont'd)

~~construction.~~ The utility may use a feasibility model to determine the amount of the advance for construction ~~or nonrefundable contribution in aid of construction.~~ The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the distribution main extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) No change.

(5) Refunds. When the customer ~~has chosen~~ is required to make an advance for construction ~~rather than a nonrefundable contribution in aid of construction,~~ the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the distribution main extension. The pro-rata refund shall be computed in the following manner:

1. to 3. No change.

(6) No change.

ITEM 4. Amend paragraph **20.3(13)“a,”** definition of “Advance for construction,” as follows:

“Advance for construction,” as used in this subrule, means cash payments or equivalent surety made to the utility by an applicant for a plant addition or an electrical line extension, portions of which may be refunded depending on the attachment of any subsequent service line made to the plant addition or electrical line extension. Cash payments or equivalent surety shall include a grossed-up amount for the income tax effect of such revenue. The amount of tax shall be reduced by the present value of the tax benefits to be obtained by depreciating the property in determining tax liability.

ITEM 5. Amend paragraph **20.3(13)“b”** as follows:

b. Plant additions. The utility shall provide all electric plant at its cost and expense without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ from customers or developers except in those unusual circumstances where extensive plant additions are required before the customer can be served. A written contract between the utility and the customer which requires an advance for construction ~~or a nonrefundable contribution in aid of construction~~ by the customer to make plant additions shall be available for board inspection. ~~The utility shall allow the customer or developer, at the customer's or developer's option, to provide a nonrefundable contribution in aid of construction instead of a refundable advance for construction.~~

ITEM 6. Amend paragraph **20.3(13)“c”** as follows:

c. Electrical line extensions. Where the customer will attach to the electrical line extension within the agreed-upon attachment period after completion of the electrical line extension, the following shall apply:

(1) The utility shall finance and make the electrical line extension for a customer without requiring an advance for construction ~~or a nonrefundable contribution in aid of construction~~ if the estimated construction costs to provide an electrical line extension are less than or equal to three times estimated base revenue calculated on the basis of similarly situated customers. The utility may use a feasibility model, rather than three times estimated base revenue calculation, to determine what, if any, advance for construction ~~or nonrefundable contribution in aid of construction~~ is required by the customer. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(2) If the estimated construction cost to provide an electrical line extension is greater than three times estimated base revenue calculated on the basis of similarly situated customers, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to commencement of construction, an advance for construction equal to the estimated construction cost less three times estimated base revenue to be produced by the customer. ~~The customer may choose to pay a nonrefundable contribution in aid of construction instead of the advance for construction.~~ The utility may use a feasibility model to determine whether an advance for construction ~~or a nonrefundable~~

UTILITIES DIVISION[199](cont'd)

~~contribution in aid of construction~~ is required. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(3) Where the customer will not attach within the agreed-upon attachment period after completion of the electrical line extension, the applicant for the electrical line extension shall contract with the utility and make, no more than 30 days prior to the commencement of construction, an advance for construction equal to the estimated construction cost ~~or a nonrefundable contribution in aid of construction~~. The utility may use a feasibility model to determine the amount of the advance for construction ~~or nonrefundable contribution in aid of construction~~. The utility shall file a summary explaining the inputs into the feasibility model and a description of the model as part of the utility's tariff. A written contract between the utility and the customer shall be available for board inspection upon request. Whether or not the construction of the electrical line extension would otherwise require a payment from the customer, the utility shall charge the customer for actual permit fees, and the permit fees are not refundable.

(4) No change.

(5) Refunds. When the customer ~~has chosen~~ is required to make an advance for construction ~~rather than a nonrefundable contribution in aid of construction~~, the utility shall refund to the depositor for a period of ten years from the date of the original advance a pro-rata share for each service line attached to the electrical line extension. The pro-rata refund shall be computed in the following manner:

1. to 3. No change.

(6) No change.

ARC 7409B**UTILITIES DIVISION[199]****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 Iowa Code sections 17A.4, 17A.7, 476.1, 476.6, 476.8, and 476.20, the Utilities Board (Board) gives notice that on November 18, 2008, the Board issued an order in Docket No. RMU-08-7, re: Electric Load Service Limiters, "Order Commencing Rule Making." The Board is noticing for public comment proposed amendments to 199 IAC 20.1(476B) and 20.4(476B). The amendments impact the use of electric load service limiters for residential customers.

On January 8, 2008, the Board initiated an inquiry into the use of electric load service limiters after rejecting a tariff and denying a waiver request filed by Consumers Energy Cooperative in Docket Nos. WRU-07-28-945 and TF-07-156. The tariff was rejected and the waiver denied by Board order issued on December 26, 2007, in part because objectors raised issues that should be addressed in a broader forum, such as an inquiry. Among the issues the Board wanted to examine were the scope of technology available, the range of applications, and legal and practical issues surrounding the use of electric load service limiters. The last time the Board looked at this issue (1999-2000), it appeared no utilities were using limiters. Today, only a few municipalities or cooperatives use them. The state's two investor-owned electric utilities, Interstate Power and Light Company and MidAmerican Energy Company, currently do not use service limiters. The scope of the inquiry was limited to use of service limiters for residential customers; the Board's current rules only apply to residential customers.

The use of service limiters may increase, however, because of advances in technology. When the Board adopted its current rules, a collar had to be placed on the meter to limit service, leading to the

UTILITIES DIVISION[199](cont'd)

requirement that once the past-due bill was paid, the collar had to be removed within 24 hours. Today, many new meters have service limiting technology built in along with a range of other meter functions, and there is no collar to install or remove; the service limiting function can be activated or disabled by the utility from a remote location. The old collars were reset by manually pushing a button; the new ones often can be reset manually, remotely, or automatically after a specified time period.

The Board's current rules on service limiters require updating because of the new technology, and there are some ambiguities in the current rules regarding when a service limiter can be used. These issues were examined in the inquiry docket.

Several groups filed written comments in the inquiry, and a workshop was held on May 14, 2008. Participants included the Consumer Advocate Division of the Department of Justice, the Iowa Department of Human Rights, Iowa Legal Aid, Interstate Power and Light Company, the Iowa Association of Municipal Utilities, MidAmerican Energy Company, the Iowa Association of Electric Cooperatives, and Consumers Energy Cooperative. Perhaps the biggest difference between those in favor of limiters and those opposed to their use is whether a service limiter, when it is tripped because the usage limit is exceeded, results in a disconnection. In other words, if one concludes that when the service limit is exceeded and the power flow stops there is a disconnection, then all the winter moratorium rules apply, the use of service limiters is severely curtailed, and enforcement is difficult.

Another view is that service limiters can be used in limited circumstances as an alternative to disconnection with no violation of the winter moratorium. The proposed rules provide that when a customer has defaulted on a first payment agreement and could be disconnected or is eligible for a second payment agreement, the utility may offer the customer a service limiter in conjunction with a subsequent payment agreement as an alternative to disconnection. The loss of service that occurs when the service limit is exceeded is arguably not a disconnection because the proposed rules provide that service must be able to be restored manually by the customer and also may be restored remotely or automatically within a short period of time.

The winter moratorium rules and temperature rules would still apply. For example, a low-income home energy assistance program (LIHEAP) eligible customer who has agreed to a service limiter could not be disconnected during the winter moratorium, although the service limiter could be utilized if the requirements in the proposed rules were satisfied. However, the proposed rules provide that the service limiter could not be placed on the customer's meter without the customer's consent. The LIHEAP-eligible customer could decline the use of a limiter, continue receiving regular service during the moratorium, and be disconnected after April 1 if past-due bills remained.

The inquiry participants did not reach a consensus on any changes to the existing electric load service limiter rules. The Board's proposed rules represent a middle ground between those who would ban the use of service limiters and those who would advocate more widespread use. The proposed rules are designed to allow for the use of service limiters as an alternative to disconnection, not as a collection tool. The proposed rules prohibit use of service limiters until there has been a default on a first payment agreement and the customer is therefore subject to disconnection. If the customer agrees to use of a limiter and a subsequent payment agreement, then under the proposed rules the customer can avoid disconnection.

The minimum usage set by the proposed rules, 3,600 watts, is designed to allow most residential customers to heat their homes and run a couple of appliances at the same time, but it will not allow full normal usage. A utility can set a higher limit as long as it uses nondiscriminatory standards. For electric heating customers, the limit must be high enough to heat the home. The proposed rules also clarify current disconnection practice, which is that disconnection can be after a 24-hour notice if the disconnection is for failure to comply with the terms of a payment agreement.

The proposed rules require that the service limiting function must be capable of being manually reset by the customer, although the function may also be capable of resetting itself automatically within 15 minutes or less or remotely, in which case a 24-hour telephone number must be provided. The proposed rules provide that there are to be no disconnect, reconnect, or other charges associated with the use of limiters; and the utility is required to provide the customer with information on how the limiter works and what appliances or combination of appliances can typically be operated to stay within the usage limits.

UTILITIES DIVISION[199](cont'd)

To reflect new technology, the proposed rules do not require the limiter to be removed if the past-due bill is paid, but the service limiting function of the meter must be disabled no later than the next working day after the account balance is paid.

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before January 6, 2009, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on February 5, 2009, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these amendments.

These amendments are intended to implement Iowa Code sections 476.1, 476.6, 476.8, and 476.20. The following amendments are proposed.

ITEM 1. Amend subrule **20.1(3)**, definition of “Service limiter,” as follows:

“*Service limiter*” or “*service limitation device*” means a ~~circuit breaker~~ device that limits a residential customer’s power consumption to ~~15 amps at 120 volts~~ 3,600 watts (or some higher level of usage approved by the board) and that ~~either~~ resets itself automatically, ~~or~~ can be reset manually by the customer, or can be reset remotely by the utility at all times.

ITEM 2. Amend subparagraph **20.4(15)“d”(4)** as follows:

(4) If the utility has adopted a service limitation policy pursuant to subrule 20.4(23), the following paragraph shall be appended to the end of the standard form for the summary of rights and ~~remedies responsibilities~~, as set forth in subparagraph 20.4(15)“d”(3):

Service limitation: We have adopted a limitation of service policy ~~of service limitation before disconnection~~ for customers who otherwise could be disconnected. ~~You may be qualified for service limitation rather than disconnection. To see if you qualify, contact our business office. Contact our business office for more information or to learn if you qualify.~~

ITEM 3. Amend paragraph **20.4(15)“f”** as follows:

f. A utility may disconnect electric service after 24-hour notice (and without the written 12-day notice) for failure of the customer to comply with the terms of a payment agreement, ~~except as provided in numbered paragraph 20.4(11)“e”(1)“4,” provided the utility complies with the provisions of paragraph 20.4(15)“d.”~~

ITEM 4. Rescind paragraph **20.4(15)“h.”**

ITEM 5. Rescind subrule 20.4(23) and adopt the following **new** subrule in lieu thereof:

20.4(23) Limitation of service. The utility shall have the option of adopting a policy for service limitation at a customer’s residence as a measure to be taken in lieu of disconnection of service to the customer. The service limiter policy shall be set out in the utility’s tariff and shall contain the following conditions:

- a.* A service limitation device shall not be activated without the customer’s agreement.
- b.* A service limitation device shall not be activated unless the customer has defaulted on a first payment agreement and the customer has agreed to a subsequent payment agreement.
- c.* The service limiter shall provide for usage of a minimum of 3,600 watts. If the service limiter policy provides for different usage levels for different customers, the tariff shall set out specific nondiscriminatory criteria for determining the usage levels. Electric-heating residential customers may have their service limited, but such customers shall have consumption limits set at a level that allows them to continue to heat their residences. For purposes of this rule, “electric heating” shall mean heating

UTILITIES DIVISION[199](cont'd)

by means of a fixed-installation electric appliance that serves as the primary source of heat and not, for example, one or more space heaters.

d. A provision that, if the minimum usage limit is exceeded such that the limiter function interrupts service, the service limiter function must be capable of being reset manually by the customer. In addition, the service limiter function may also reset itself automatically within 15 minutes or less after the interruption or be capable of being reset remotely by the utility. If the utility chooses to use the option of resetting the meter remotely, the utility shall provide a 24-hour toll-free number for the customer to notify the utility that the limiter needs to be reset and the meter shall be reset immediately following notification by the customer.

e. There shall be no disconnect, reconnect, or other charges associated with service limiter interruptions or restorations.

f. A provision that, upon installation of a service limiter or activation of a service limiter function on the meter, the utility shall provide the customer with information on the operation of the limiter, including how it can be reset, and information on what appliances or combination of appliances can generally be operated to stay within the limits imposed by the limiter.

g. A provision that the service limiter function of the meter shall be disabled no later than the next working day after the residential customer has paid the delinquent balance in full.

h. A service limiter customer that defaults on the payment agreement is subject to disconnection after a 24-hour notice pursuant to paragraph 20.4(15)“*f.*”

ARC 7421B

PUBLIC SAFETY DEPARTMENT[661]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code Supplement section 103.6, the Electrical Examining Board hereby amends Chapter 552, "Electrical Inspection Program—Permits and Inspections," Iowa Administrative Code.

The Electrical Examining Board has recently adopted rules, which become effective on January 1, 2009, to implement the new state Electrical Inspection Program. However, it will be impractical for the program to be operational by that date. For that reason, the Board is filing this emergency amendment to delay implementation of the requirements for permits and inspections for electrical installations until February 1, 2009.

Pursuant to Iowa Code section 17A.4(2), the Electrical Examining Board finds that notice and public participation are impracticable because it is essential to provide notice of the change in the effective date of the new permitting and inspection requirements as soon possible to those affected by these requirements. It is essential that the delay in the effective date of the requirements until February 1, 2009, be in effect when the requirements would otherwise take effect on January 1, 2009.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Electrical Examining Board further finds that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment made effective January 1, 2009. The amendment confers a benefit on those subject to the new permitting and inspection requirements by ensuring an orderly implementation of the new requirements.

This amendment is intended to implement Iowa Code Supplement section 103.6.

This amendment will become effective January 1, 2009.

The following amendment is adopted.

Amend rule 661—552.1(103), introductory paragraph, as follows:

661—552.1(103) Required permits and inspections. Permits and inspections are required for any of the following electrical installations that are initiated on or after February 1, 2009:

[Filed Emergency 11/23/08, effective 1/1/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7437B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 9, "All Iowa Opportunity Foster Care Grant Program," Iowa Administrative Code.

The adopted amendment clarifies that awards shall not exceed the full cost of attendance as determined by the college or university minus other federal, state, or college or university gift aid and work study provided to the student.

Notice of Intended Action was published in the October 8, 2008, Iowa Administrative Bulletin as **ARC 7251B**. The adopted amendment is identical to that published under Notice.

This amendment was adopted during the November 26, 2008, meeting of the Iowa College Student Aid Commission.

This amendment will become effective on January 21, 2009.

This amendment is intended to implement Iowa Code chapter 261.

The following amendment is adopted.

Amend subrule 9.4(5) as follows:

9.4(5) Academic-year awards. All Iowa opportunity foster care grants are provided during the traditional nine-month academic year, which is generally defined as September through May. Awards shall not exceed the full cost of attendance as determined by the college or university minus other federal, state, or college or university ~~financial~~ gift aid and work study aid provided to the student.

[Filed 11/26/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7438B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby adopts new Chapter 16, "Washington, D.C., Internship Grant," Iowa Administrative Code.

The purpose of these rules is to implement the Washington, D.C., Internship Grant as enacted by 2008 Iowa Acts, House File 2679.

Notice of Intended Action was published in the August 27, 2008, Iowa Administrative Bulletin as **ARC 7096B**. These rules were also Adopted and Filed Emergency and were published as **ARC 7095B** on the same date. The adopted rules are identical to those published under Notice and Adopted and Filed Emergency.

These rules were adopted during the November 26, 2008, meeting of the Iowa College Student Aid Commission.

These rules will become effective on January 21, 2009, at which time the Adopted and Filed Emergency rules, which became effective August 1, 2008, are hereby rescinded.

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

These rules are intended to implement Iowa Code chapter 261 and 2008 Iowa Acts, House File 2679.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 16] is being omitted. These rules are identical to those published under Notice as **ARC 7096B** and Adopted and Filed Emergency as **ARC 7095B**, IAB 8/27/08.

[Filed 11/26/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7439B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby adopts new Chapter 17, "Barber and Cosmetology Arts and Sciences Tuition Grant Program," Iowa Administrative Code.

The purpose of these rules is to implement the Barber and Cosmetology Arts and Sciences Tuition Grant Program as enacted by 2008 Iowa Acts, House File 2679, section 32.

Notice of Intended Action was published in the August 27, 2008, Iowa Administrative Bulletin as **ARC 7098B**. These rules were also Adopted and Filed Emergency and were published as **ARC 7097B** on the same date. The adopted rules are identical to those published under Notice and Adopted and Filed Emergency.

These rules were adopted during the November 26, 2008, meeting of the Iowa College Student Aid Commission.

These rules will become effective on January 21, 2009, at which time the Adopted and Filed Emergency rules, which became effective August 1, 2008, are hereby rescinded.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 32.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 17] is being omitted. These rules are identical to those published under Notice as **ARC 7098B** and Adopted and Filed Emergency as **ARC 7097B**, IAB 8/27/08.

[Filed 11/26/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7441B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby adopts new Chapter 33, "Chiropractic Loan Forgiveness Program," Iowa Administrative Code.

The purpose of these rules is to implement the Chiropractic Loan Forgiveness Program as enacted by 2008 Iowa Acts, House File 2679, section 34.

Notice of Intended Action was published in the August 27, 2008, Iowa Administrative Bulletin as **ARC 7102B**. These rules were also Adopted and Filed Emergency and were published as **ARC 7100B** on the same date. The adopted rules are identical to those published under Notice and Adopted and Filed Emergency.

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

These rules were adopted during the November 26, 2008, meeting of the Iowa College Student Aid Commission.

These rules will become effective on January 21, 2009, at which time the Adopted and Filed Emergency rules, which became effective August 1, 2008, are hereby rescinded.

These rules are intended to implement 2008 Iowa Acts, House File 2679, section 34.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 33] is being omitted. These rules are identical to those published under Notice as **ARC 7102B** and Adopted and Filed Emergency as **ARC 7100B**, IAB 8/27/08.

[Filed 11/26/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7418B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 17, "Open Enrollment," Iowa Administrative Code.

In accordance with 2008 Iowa Acts, House File 2700, section 108, the Board amends rule 281—17.10(282) to change the funding formula for students enrolled in a home school assistance program from .6 per pupil to .3 per pupil. In addition, subrule 17.10(6) is amended to clarify a misunderstanding about the phrase "number of quarters." School districts may not lawfully pay for services not rendered; all tuition of any type is prorated to the day of service. The reference to "quarterly" ("quarterly payments shall be made to the receiving district") in Iowa Code section 282.18, subsection 9, refers to when payments are made from one district to another; it does not refer to the amount of such payments or how to calculate them. Striking the text in subrule 17.10(6) that refers to the number of quarters allows the Department to give clearer guidance on this matter to districts. Finally, subrule 17.10(2) is amended to clarify which district shall count home-schooled pupils who are dually enrolled.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the August 27, 2008, Iowa Administrative Bulletin as **ARC 7093B**. Public comments were allowed until 4:30 p.m. on September 16, 2008. No written or oral comments were received.

This amendment is identical to that published under Notice.

This amendment is intended to implement 2008 Iowa Acts, House File 2700, section 108.

This amendment shall become effective January 21, 2009.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [17.10] is being omitted. This amendment is identical to that published under Notice as **ARC 7093B**, IAB 8/27/08.

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7419B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 21, "Community Colleges," and Chapter 24, "Community College Accreditation," Iowa Administrative Code.

Items 1 to 5 and 10 and 11 address legislation in 2007 Iowa Acts, chapter 214, sections 21 to 23, and 2008 Iowa Acts, House File 2679, sections 27 to 29. The subject matter addressed deals with the Quality Faculty Committee established in Iowa Code section 260C.36 and accreditation standards regarding community college faculty. Until the Department completes the transfer of all agency rules regarding accreditation of community colleges to Chapter 24, certain rules appear in both Chapters 21 and 24.

Regarding Item 6, 2008 Iowa Acts, House File 2679, section 26, changed the formula by which funds allocated to the Department are distributed to all 15 community colleges to supplement faculty salaries. The former distribution formula was based on the proportional share of each community college's total salary expenditures in the instructional and instructional part-time categories in the education functions of liberal arts and sciences and vocational-technical to the total salary expenditures for all community colleges in such functions (pursuant to 2007 Iowa Acts, chapter 215, section 31). The new legislation states that the distribution formula shall be based on the number of full-time equivalent instructors employed by each community college in proportion to the total number of such instructors employed by all Iowa community colleges. Finally, the new legislation directed the state Board of Education to define by rule "eligible full-time equivalent instructor." The definition is the total of full-time faculty plus the fractions of part-time faculty who are covered by a collective bargaining agreement.

Items 7 to 9 incorporate the expansion in 2008 Iowa Acts, House File 2651, section 16, of the locations at which the course for drinking drivers may be offered to include the state correctional facilities listed in Iowa Code section 904.102 (presently those are the correctional institution for women, the Anamosa and Fort Madison penitentiaries, the Oakdale medical and classification center, the correctional facilities at Rockwell City, Mount Pleasant, Clarinda, Newton, and Fort Dodge). The legislation also mandates that the Department of Education consult with the Departments of Public Health and Corrections for approval of such courses.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the August 27, 2008, Iowa Administrative Bulletin as **ARC 7090B**. A public hearing was held on September 19, 2008, and public comments were allowed until close of business on that same date. The public hearing originated at the Grimes State Office Building and was simultaneously narrowcast at eight remote ICN sites. A total of 13 persons attended the public hearing. Only one comment was received pertinent to this rule making from which the Department has made a change. A representative of Des Moines Area Community College (DMACC) noted that both the terms "school term" and "traditional semester" are used in paragraph "a" of subrule 21.3(4), and that there should be consistency. The Department agrees and has adjusted the language accordingly. Paragraph 21.3(4)"a" now reads as follows:

"a. College parallel. The full-time teaching load of an instructor in college parallel programs shall not exceed a maximum of 16 credit hours per traditional semester or the equivalent. An instructor may also have a teaching assignment outside of the normal school hours; provided the instructor consents to this additional assignment and the total workload does not exceed the equivalent of 18 credit hours within a traditional semester."

The other public comments raised questions about the underlying legislation itself. The Department cannot deviate in rule making from the language of the legislation, so no other changes to the amendments have been made. Those concerns question the appropriateness of professional development plans for adjunct faculty, of the burden on human resource officers of professional development plans for adjunct faculty, of requiring adjunct faculty (and all instructors teaching credit coursework) to meet minimum

EDUCATION DEPARTMENT[281](cont'd)

faculty standards by July 1, 2011, and of use of the term “media specialist” regarding quality faculty plans.

These amendments are intended to implement 2008 Iowa Acts, House File 2679, section 26; 2008 Iowa Acts, House File 2651, section 16; and Iowa Code sections 260C.36 and 260C.48(1) as amended by 2007 Iowa Acts, chapter 214, sections 21 to 23 (Senate File 588), and by 2008 Iowa Acts, House File 2679, sections 27 to 29.

These amendments shall become effective January 21, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [21.3, 21.31, 21.32, 24.3, 24.5] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 7090B**, IAB 8/27/08.

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7417B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 84, “Financial Incentives for National Board Certification,” Iowa Administrative Code.

2007 Iowa Acts, chapter 108, sections 6 and 7 (Iowa Code Supplement section 256.44(1)), phased out the financial incentives provided to Iowa teachers who become certified by the National Board for Professional Teaching Standards. A teacher must have registered for such certification by December 31, 2007, to qualify for the reimbursement award under rule 281—84.3(256). In addition, a teacher must have registered for such certification by December 31, 2007, and have achieved certification within the timelines and policies established by the national Board to be eligible for the annual award under rule 281—84.4(256).

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the August 27, 2008, Iowa Administrative Bulletin as **ARC 7092B**. Public comments were allowed until 4:30 p.m. on September 16, 2008. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments are intended to implement Iowa Code Supplement section 256.44(1).

These amendments shall become effective January 21, 2009.

The following amendments are adopted.

ITEM 1. Amend rule 281—84.1(256) as follows:

281—84.1(256) Purpose. National Board Certification (NBC) is available to teachers nationwide and requires candidates to demonstrate their teaching practice as measured against high and rigorous standards. NBC teachers enhance the educational experience of their students and motivate fellow teachers toward excellence in classroom teaching. These rules implement the two financial incentive pilot programs enacted by the Iowa legislature to increase the number of NBC teachers in Iowa.

NOTE: Pursuant to Iowa Code Supplement section 256.44, the financial incentives for NBC teachers are available only to teachers who registered for National Board Certification on or before December 31, 2007. Funds are available to honor the registration reimbursements in rule 84.3(256) and the annual awards in rule 84.4(256) for eligible individuals.

EDUCATION DEPARTMENT[281](cont'd)

ITEM 2. Amend paragraph **84.3(1)“e”** as follows:

e. The individual completes the department’s application process, which includes submitting verification of NBC registration. The teacher must have registered with NBPTS no later than December 31, 2007.

ITEM 3. Amend subrule 84.4(1), introductory paragraph, as follows:

84.4(1) Eligibility. ~~Individuals~~ In addition to having registered with NBPTS no later than December 31, 2007, and achieving certification within NBPTS-established timelines and policies, individuals eligible for the NBC annual award shall meet all of the following qualifications:

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7436B

HISTORICAL DIVISION[223]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby amends Chapter 21, “Membership in the Society,” Iowa Administrative Code.

The amendments modify the award programs of the State Historical Society of Iowa. Specifically, the amendments create additional Board of Trustees’ awards to recognize citizen achievements in support of Iowa’s history. In addition, these amendments establish the process for nomination of individuals and organizations for these awards and the process for review and evaluation of nominations for the awards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 22, 2008, as **ARC 7278B**. No public comment was received on these amendments. The adopted amendments are identical to those published under Notice.

These amendments were approved by the Director on November 12, 2008, and adopted on November 26, 2008.

These amendments will become effective on January 21, 2009.

These amendments are intended to implement Iowa Code chapter 303.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [21.2, 21.3] is being omitted. These amendments are identical to those published under Notice as **ARC 7278B**, IAB 10/22/08.

[Filed 11/26/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7411B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455A.5(6), the Natural Resource Commission hereby amends Chapter 45, “Boat Motor Regulations,” Iowa Administrative Code.

This amendment was requested by the Adams County Conservation Board to eliminate the existing rule restriction of a 300 horsepower limit for motor boats on Lake Icaria in Adams County. Many modern boats have higher horsepower ratings (greater than 300) than older manufactured boats and, as a result, the existing horsepower limit has become outdated and is restricting many of the recently manufactured boats from legal use/access to Lake Icaria.

NATURAL RESOURCE COMMISSION[571](cont'd)

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 8, 2008, as **ARC 7217B**. A public hearing was held on October 28, 2008. No comments were received during the comment period or at the hearing. No changes were made to the Notice of Intended Action.

This amendment is intended to implement Iowa Code section 462A.3.

This amendment will become effective January 21, 2009.

The following amendment is adopted.

Amend paragraph **45.4(3)“b”** as follows:

b. Lake Icaria, Adams County—motorboats of outboard or inboard/outdrive type ~~with power not to exceed 300 horsepower~~. Vessels must be operated at a no-wake speed when within 50 feet of another vessel which is not underway or is operating at a no-wake speed. Additional speed and distance regulations apply as established in 571—40.20(462A).

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7413B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 81, “Fishing Regulations,” Iowa Administrative Code.

The amendments establish a statewide daily bag limit for bluegill and crappie in public waters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7146B**. Public hearings were held September 30, 2008, and October 1, 2, 3 and 9, 2008. There are no changes from the Notice of Intended Action.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.67.

These amendments shall become effective January 21, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [81.1, 81.2(12)] is being omitted. These amendments are identical to those published under Notice as **ARC 7146B**, IAB 9/10/08.

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7414B**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 85, “Trotlines,” Iowa Administrative Code.

The adopted amendment requires all trotlines to be removed from the shore when they are not being actively fished.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7036B**. A public hearing was held August 22, 2008. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.74.

This amendment will become effective January 21, 2009.

NATURAL RESOURCE COMMISSION[571](cont'd)

The following amendment is adopted.

Amend rule 571—85.1(481A) as follows:

571—85.1(481A) Trotlines where permitted.

85.1(1) *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Maquoketa River, mouth to Backbone State Park dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

85.1(2) *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when they are not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

This rule is intended to implement Iowa Code sections 481A.38, 481A.39, and 481A.74.

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7415B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 88, "Fishing Tournament," Iowa Administrative Code.

The adopted amendment establishes a \$25 administrative fee for fishing tournament permits.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 30, 2008, as **ARC 7035B**. A public hearing was held August 22, 2008. There are no changes from the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 462A.16, 481A.38, and 455A.5(6)"e."

This amendment will become effective January 21, 2009.

The following amendment is adopted.

Amend rule 571—88.2(462A,481A) as follows:

571—88.2(462A,481A) Permit required. A permit issued by the department of natural resources is required to conduct a fishing tournament on public waters under the jurisdiction of the state. The administrative fee for each fishing tournament permit is \$25. Fishing clinics and youth fishing days are excluded.

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7410B

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby amends Chapter 106, "Deer Hunting by Residents," Iowa Administrative Code.

NATURAL RESOURCE COMMISSION[571](cont'd)

Chapter 106 sets the season dates, shooting hours, license types, quotas and restrictions, method of take, and tagging and reporting requirements for resident deer hunting. It also includes rules for issuing depredation licenses and shooting permits. The amendment clarifies that all shooting permits and depredation licenses issued through the depredation program will have a \$1 charge for the HUSH program and a \$1 writing fee added to the cost to be consistent with all other deer licenses issued by the Department.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 10, 2008, as **ARC 7147B**. A public hearing was held on October 21, 2008, and no comments were received. There are no changes from the Notice of Intended Action.

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

This amendment shall become effective January 21, 2009.

The following amendment is adopted.

Adopt the following new paragraph **106.11(4)“e”**:

e. A person who receives a depredation permit pursuant to this paragraph shall pay a \$1 fee for each license that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger (HUSH) program administered by the commission and a \$1 writing fee for each license to the license agent.

[Filed 11/20/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7424B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 2, “Pharmacist Licenses,” Iowa Administrative Code.

These amendments clarify requirements for reactivation of a delinquent license to practice pharmacy in Iowa and the meaning of active license status. The amendments also reorganize subrule 2.12(1) to clearly identify provisions relating to exemption from continuing education requirements for individuals engaged in health-related graduate studies and relating to application for credit for nonaccredited programs. The amendments also expand the renewal period within which continuing education credits are to be obtained and define the continuing education penalty for failure to timely complete the required continuing education.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 8, 2008, Iowa Administrative Bulletin as **ARC 7230B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved during the November 19, 2008, meeting of the Board of Pharmacy.

These amendments will become effective on January 21, 2009.

These amendments are intended to implement Iowa Code sections 147.10, 147.11, 155A.11, and 272C.2.

The following amendments are adopted.

ITEM 1. Amend subrule 2.11(2) as follows:

2.11(2) Delinquent license. If a license is not renewed before its expiration date, the license is delinquent and the licensee may not practice pharmacy in the state of Iowa until the licensee reactivates the delinquent license. Reactivation of a delinquent license shall include submission of a completed

PHARMACY BOARD[657](cont'd)

application and appropriate fees and may include requirements relating to the reactivation of an inactive license pursuant to subrule 2.13(2). A pharmacist who continues to practice pharmacy in Iowa without a current license may be subject to disciplinary sanctions pursuant to the provisions of 657—subrule 36.1(4).

ITEM 2. Amend subrule 2.12(1) as follows:

2.12(1) Continuing education program attendance. Continuing education programs that carry the seal of an American Council on Pharmaceutical Education (ACPE) approved provider will automatically qualify for continuing education credit. Program attendance is mandated in order to receive credit unless ~~the program~~ is a correspondence course that ACPE approved.

a. Non-ACPE provider program. A pharmacist requesting individual credit for completing a non-ACPE provider program shall submit a request for approval of the program to the board office no later than the date the program commences. The request shall be made on forms provided by the board office.

b. Exemption for health-related graduate studies. A pharmacist who is continuing formal education in health-related graduate programs may be exempted from meeting the continuing education requirements during the period of such enrollment. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program, on forms provided by the board office.

ITEM 3. Amend subrule 2.12(2) as follows:

2.12(2) Continuing education unit required. The nationally accepted measurement of continuing education is referred to as CEU (continuing education unit), and the board of pharmacy employs that measurement. Ten contact hours of approved continuing education are equivalent to one CEU. The board of pharmacy will require 3.0 CEUs each renewal period. For purposes of this rule, “renewal period” means the 27-month period commencing April 1 prior to the previous license expiration and ending June 30, the date of current license expiration. A pharmacist who fails to complete the required CEUs within the renewal period shall be required to complete one and one-half times the number of delinquent CEUs prior to reactivation of the license. CEUs that are used to satisfy the continuing education requirement for one renewal period shall not be used to satisfy the requirement for a subsequent renewal period.

ITEM 4. Amend subrule 2.13(1) as follows:

2.13(1) Active license. Active license status applies to a pharmacist who has submitted the renewal application and fee and has met Iowa requirements for continuing education ~~or~~. Active license status also applies to a pharmacist who has submitted the renewal application and fee and who is a resident of another state, is licensed to practice pharmacy in that state, and has met the continuing education requirements of that state. A pharmacist who meets the continuing education requirements of another state shall provide documentation on the renewal application of the pharmacist’s license status in that state. An Iowa licensee actively practicing in a state that does not require continuing education for license renewal shall be required to meet Iowa continuing education requirements. A pharmacist meeting the continuing education requirements of another state must provide documentation on the renewal application of the pharmacist’s license status in that state.

[Filed 11/24/08, effective 1/21/09]

[Published 12/17/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7425B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

PHARMACY BOARD[657](cont'd)

The amendment eliminates the option of maintaining the name of the distributor of the actual drug product dispensed. The pharmacy's prescription dispensing record shall include either the National Drug Code or the name of the manufacturer of the actual drug product dispensed.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 8, 2008, Iowa Administrative Bulletin as **ARC 7241B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the November 19, 2008, meeting of the Board of Pharmacy.

This amendment will become effective on January 21, 2009.

This amendment is intended to implement Iowa Code sections 155A.32 and 155A.35.

The following amendment is adopted.

Amend rule 657—6.8(124,155A) as follows:

657—6.8(124,155A) Prescription processing documentation. All prescriptions shall be dated and assigned a unique identification number that shall be recorded on the original prescription. The original prescription, whether transmitted orally, electronically, or in writing, shall be retained by the pharmacy filling the prescription. Refill documentation shall include date of refill and the initials or other unique identification of the pharmacist. The name, strength, and either the manufacturer's ~~or distributor's~~ name or the National Drug Code (NDC) of the actual drug product dispensed shall be maintained and be readily retrievable.

[Filed 11/24/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7426B**PHARMACY BOARD[657]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 155A.13, the Board of Pharmacy hereby amends Chapter 7, "Hospital Pharmacy Practice," Iowa Administrative Code.

This amendment authorizes the use of the InstyMeds drug dispensing system in a hospital emergency department subject to the conditions and requirements specified in this rule. The system may not be utilized if the hospital is located within 15 miles of a pharmacy that provides 24-hour outpatient pharmacy services, and, except for antimicrobials, dispensing quantities shall not exceed a 72-hour supply of the prescribed drug. New subrule 7.12(6) addresses requirements for patient counseling, patient freedom of choice of pharmacy services, patient identification, prescription labeling, policies and procedures, equipment placement and security, and retrospective review of drugs dispensed utilizing the InstyMeds system.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 8, 2008, Iowa Administrative Bulletin as **ARC 7228B**. The Board received written comments from one Iowa hospital regarding the proposed amendment. The comments questioned the Board's decision to prohibit use of the InstyMeds system by a hospital located in an area where 24-hour outpatient services are available within 15 miles of the hospital. The Board feels that this is a patient care and safety issue because a pharmacist is not directly involved in the dispensing of a prescription drug utilizing the InstyMeds system. The adopted amendment is identical to that published under Notice.

The amendment was approved during the November 19, 2008, meeting of the Board of Pharmacy.

This amendment will become effective on January 21, 2009.

PHARMACY BOARD[657](cont'd)

This amendment is intended to implement Iowa Code section 155A.13, subsection 4.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [7.12] is being omitted. This amendment is identical to that published under Notice as **ARC 7228B**, IAB 10/8/08.

[Filed 11/24/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7427B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby amends Chapter 18, "Centralized Prescription Filling and Processing," Iowa Administrative Code.

The amendment eliminates the requirement for a written authorization from a patient before the pharmacy outsources the filling or processing of a patient's prescriptions. The amendment requires the pharmacy to display a sign and to provide written notice to patients prior to implementing a centralized filling or processing program or prior to providing pharmaceutical services to a new patient.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 8, 2008, Iowa Administrative Bulletin as **ARC 7229B**. The Board received no written comments regarding the proposed amendment. The adopted amendment is identical to that published under Notice.

The amendment was approved during the November 19, 2008, meeting of the Board of Pharmacy.

This amendment will become effective on January 21, 2009.

This amendment is intended to implement Iowa Code section 155A.13.

The following amendment is adopted.

Amend subrule 18.5(1) as follows:

18.5(1) *Prior notification and authorization.* A pharmacy that outsources prescription drug order filling or prescription drug order processing to another pharmacy shall, prior to outsourcing a patient's prescription:

a. Notify the patient or the patient's agent that prescription filling or processing may be outsourced to another pharmacy.

b. Provide the name of the pharmacy that will be filling or processing the prescription or, if the pharmacy is part of a network of pharmacies under common ownership and any of the network pharmacies may fill or process the prescription, the patient shall be notified of this fact. Notification ~~may~~ shall be provided through a one-time written notice to the patient or the patient's agent or through use by means of a sign prominently displayed in the originating pharmacy and through written notice provided to the patient or the patient's agent prior to implementation of the program or upon commencement of services to a new patient, as applicable.

~~*e.* — Following patient notification and prior to outsourcing, the originating pharmacy shall receive written authorization from the patient to outsource the filling or processing of a patient's prescription drug order. If a patient does not so authorize the originating pharmacy, the pharmacy shall not outsource the filling or processing of the patient's prescription drug orders.~~

PHARMACY BOARD[657](cont'd)

~~4. c.~~ If a patient provides the originating pharmacy with notification that the patient no longer authorizes the originating pharmacy to outsource the patient's prescription drug orders, the originating pharmacy shall discontinue outsourcing the filling or processing of the patient's prescription drug orders.

[Filed 11/24/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7428B

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76 and 2008 Iowa Acts, Senate File 2428, section 14, the Board of Pharmacy hereby adopts Chapter 32, "Nonpayment of State Debt," and amends Chapter 36, "Discipline," Iowa Administrative Code.

New Chapter 32 establishes the Board processes to be implemented upon receipt of a certificate of noncompliance from the centralized collection unit of the Department of Revenue pursuant to the procedures set forth in 2008 Iowa Acts, Senate File 2428, division II. The rules define terms used throughout the chapter and establish procedures relating to the denial, suspension, or revocation of a license or registration including preparation and service of a notice, effective date of the Board's action, the responsibilities of the licensee or applicant, and reinstatement of a license. The amendment to Chapter 36 establishes nonpayment of a state debt as evidenced by a certificate of noncompliance issued by the Department of Revenue as one of the grounds for disciplinary action by the Board.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Notice of Intended Action was published in the October 8, 2008, Iowa Administrative Bulletin as **ARC 7242B**. The Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

These amendments were approved during the November 19, 2008, meeting of the Board of Pharmacy. These amendments will become effective on January 21, 2009.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2428, division II.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [Ch 32, 36.1(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 7242B**, IAB 10/8/08.

[Filed 11/24/08, effective 1/21/09]

[Published 12/17/08]

[For replacement pages for IAC, see IAC Supplement 12/17/08.]

ARC 7440B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Physical and Occupational Therapy hereby rescinds Chapter 199, "Administrative and Regulatory Authority for the Board of Physical and Occupational Therapy—Physical Therapy," amends Chapter 200, "Licensure of Physical Therapists and Physical Therapist Assistants," Chapter 202, "Discipline for Physical Therapists and Physical Therapist Assistants," and Chapter 203, "Continuing Education for Physical Therapists and Physical Therapist Assistants," rescinds Chapter 204, "Fees," and Chapter 205, "Administrative

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

and Regulatory Authority for the Board of Physical and Occupational Therapy—Occupational Therapy,” amends Chapter 206, “Licensure of Occupational Therapists and Occupational Therapy Assistants,” Chapter 207, “Continuing Education for Occupational Therapists and Occupational Therapy Assistants,” and Chapter 209, “Discipline for Occupational Therapists and Occupational Therapy Assistants,” and rescinds Chapter 210, “Fees,” Iowa Administrative Code.

These amendments update practice requirements for physical and occupational therapy licensure and remove language that has been added to the common chapters for the Division of Professional Licensure.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 24, 2008, as **ARC 7158B**. A public hearing was held on October 14, 2008, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. There was no public comment received.

These amendments were adopted by the Iowa Board of Physical and Occupational Therapy on November 21, 2008.

These amendments will become effective January 21, 2009.

These amendments are intended to implement Iowa Code chapters 21, 147, 148A, 148B and 272C.

The following amendments are adopted.

ITEM 1. Rescind and reserve **645—Chapter 199**.

ITEM 2. Rescind and reserve rules **645—200.8(147)** and **645—200.12(147)** to **645—200.14(17A,147,272C)**.

ITEM 3. Rescind and reserve rule **645—202.5(148A)**.

ITEM 4. Rescind and reserve rules **645—203.4(148A,272C)** to **645—203.7(148A,272C)**.

ITEM 5. Rescind and reserve **645—Chapter 204** and **645—Chapter 205**.

ITEM 6. Rescind and reserve rules **645—206.11(147)** and **645—206.15(147)** to **645—206.17(17A,147,272C)**.

ITEM 7. Rescind and reserve rules **645—207.4(148B,272C)** to **645—207.7(148B,272C)**.

ITEM 8. Rescind and reserve rule **645—209.5(148B)**.

ITEM 9. Rescind and reserve **645—Chapter 210**.

[Filed 11/26/08, effective 1/21/09]

[Published 12/17/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7408B

REAL ESTATE COMMISSION[193E]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Iowa Real Estate Commission hereby amends Chapter 17, “Approval of Schools, Courses and Instructors,” Iowa Administrative Code.

This amendment changes the standards for Commission approval of courses of instruction by changing the number of credit hours required to qualify for course approval from three to one.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 7089B** on August 27, 2008. No public comment was received. This amendment is identical to that published under Notice.

This amendment was adopted by the Commission on November 13, 2008.

This amendment is intended to implement Iowa Code chapter 543B.

This amendment will become effective January 21, 2009.

The following amendment is adopted.

REAL ESTATE COMMISSION[193E](cont'd)

Amend subrule 17.7(3) as follows:

17.7(3) The course qualifies for at least ~~three~~ one credit ~~hours~~ hour.

[Filed 11/18/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7422B

**TELECOMMUNICATIONS AND TECHNOLOGY
COMMISSION, IOWA[751]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 8D.3(3)“b,” the Iowa Telecommunications and Technology Commission hereby amends Chapter 7, “Authorized Use and Users,” Iowa Administrative Code.

The amendments reflect the addition of a new subsection to Iowa Code section 8D.13 during the 2008 legislative session (2008 Iowa Acts, House File 2539), providing the Iowa Hospital Association access to the Iowa Communications Network.

These amendments are subject to waiver or variance pursuant to 751—Chapter 16.

Notice of Intended Action was published in the August 13, 2008, Iowa Administrative Bulletin as **ARC 7057B**. A public hearing was held on September 4, 2008. No comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted during the November 20, 2008, meeting of the Iowa Telecommunications and Technology Commission.

These amendments will become effective on January 21, 2009.

These amendments are intended to implement 2008 Iowa Acts, House File 2539.

The following amendments are adopted.

ITEM 1. Amend rule **751—7.1(8D)**, definition of “Private agency,” as follows:

“*Private agency*” means an accredited nonpublic school, a nonprofit institution of higher education eligible for tuition grants, ~~or~~ a hospital licensed pursuant to Iowa Code chapter 135B or a physician clinic to the extent provided in Iowa Code section 8D.13, subsection 16, or the Iowa Hospital Association.

ITEM 2. Amend subrule 7.4(5) as follows:

7.4(5) Telemedicine connectivity.

a. The following telemedicine facilities may connect directly to the network for video and data transmissions including Internet access.

~~a.~~ (1) Hospitals licensed pursuant to Iowa Code chapter 135B;

~~b.~~ (2) Physician clinics to the extent provided in Iowa Code section 8D.13(16).

b. Access is offered to the Iowa Hospital Association for the purposes of collection, maintenance, and dissemination of health and financial data for hospitals and for hospital education services.

[Filed 11/24/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7406B**TREASURER OF STATE[781]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 12D.2, the Treasurer of State hereby amends Chapter 16, "Iowa Educational Savings Plan Trust," Iowa Administrative Code.

The rules in Chapter 16 provide for the administration and operation of the Iowa educational savings plan trust. These amendments reflect statutory changes and other changes to the Iowa educational savings plan trust.

Notice of Intended Action was published in the October 22, 2008, Iowa Administrative Bulletin as **ARC 7279B**. The adopted amendments are identical to those published under Notice.

These amendments will become effective on January 21, 2009.

These amendments are intended to implement Iowa Code chapter 12D.

The following amendments are adopted.

ITEM 1. Amend subrule 16.4(2) as follows:

16.4(2) The program administrator may from time to time provide ~~for~~ additional forms for use by participants and beneficiaries in connection with actions involving the Iowa 529 plan and will make those forms available online and in paper format.

ITEM 2. Amend subrule 16.7(1) as follows:

16.7(1) The program administrator will provide each participant a quarterly statement. Participants are allowed to make contributions at any time during the calendar year provided that each contribution is made in accordance with the minimum contribution and other requirements set forth in the program description. ~~Payments received from a person who has not entered into a participation agreement shall be returned or held until a participation agreement is submitted and approved.~~

[Filed 11/13/08, effective 1/21/09]

[Published 12/17/08]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.

ARC 7430B**UTILITIES DIVISION[199]****Adopted and Filed**

Pursuant to Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248, the Utilities Board (Board) gives notice that on November 25, 2008, the Board issued an order in Docket No. RMU-08-5, In re: Revisions to Rules Governing Certificates of Franchise Authority for Cable and Video Service [199 IAC 44], "Order Adopting Amendments." The order adopted amendments which were published under Notice of Intended Action in IAB Vol. XXXI, No. 7 (9/24/2008), p. 815, as **ARC 7168B**, without revision.

The amendments revise the Board's rules at 199 IAC 44 regarding certificates of franchise authority for cable and video service providers to reflect recent legislative changes in 2008 Iowa Acts, Senate File 2248, and to add other provisions regarding notice from certificated service providers of service area revision, transfer of certificates, or termination of certificates.

The order adopting amendments contains a more thorough discussion of the amendments. The order is available on the Board's Web site at www.state.ia.us/iub.

These amendments will become effective on January 21, 2009.

These amendments are intended to implement Iowa Code sections 17A.4 and 476.2 and 2008 Iowa Acts, Senate File 2248.

The following amendments are adopted.

UTILITIES DIVISION[199](cont'd)

ITEM 1. Amend rules **199—44.2(17A,476,82GA,SF554)** and **199—44.3(17A,476,82GA,SF554)**, parenthetical implementation, by striking “82GA,SF554” and inserting “477A,82GA,SF2248” in lieu thereof.

ITEM 2. Amend rule **199—44.2(17A,476,477A,82GA,SF2248)**, definition of “Municipality,” as follows:

“*Municipality*” means a ~~county or a~~ city.

ITEM 3. Amend subrule 44.3(1) as follows:

44.3(1) Existing franchise agreements. A person providing cable service or video service pursuant to a franchise agreement with a municipality in effect before July 1, 2007, is not subject to the requirement to obtain a franchise with respect to such municipality until the franchise agreement expires or, in the case of an incumbent cable provider, until the franchise is converted to a certificate of franchise authority issued by the board. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may apply for a certificate of franchise authority from the board. An application for a certificate of franchise authority from a person subject to an existing municipal franchise agreement may be filed within 60 days prior to the expiration of the agreement and, if granted, shall take effect upon the expiration date of the agreement.

ITEM 4. Amend subrules 44.3(5) to 44.3(7) as follows:

44.3(5) Modification of service area. At least 14 days before expanding cable service or video service to a previously undesignated service area or making any other change to its previously designated service area, the holder of a certificate of franchise authority shall update the description of its service area on file with the board and shall notify the board ~~upon~~ of the effective date of the expansion or other change in service area using a form developed by and available from the board. The board will acknowledge receipt of a notice of service area modification by letter.

44.3(6) Transfer of certificate of franchise authority. The holder of a certificate of franchise authority may transfer the certificate to any successor by filing a notice of transfer with the board and each affected municipality using a form developed by and available from the board. The notice of transfer shall include the address of the successor’s principal place of business and the names and titles of the successor’s principal executive officers with direct authority over and responsibility for the successor’s cable or video operations. A notice of transfer shall be effective on the date which is the later of (1) 14 business days after the date of filing of the notice of transfer with the board or (2) the effective date of transfer as designated by the certificate holder, provided such date is not less than 14 business days after the date the notice of transfer is filed with the board, unless the certificate holder files a notice of rescheduling of the transfer and provides a copy of such notice to each affected municipality. As of the effective date of the transfer, the successor shall assume all regulatory rights and responsibilities of the holder of the certificate. The board will acknowledge receipt of a notice of transfer by letter.

44.3(7) Termination of certificate of franchise authority. The holder of a certificate of franchise authority may terminate the certificate by providing written notice of the effective date of termination to the board and to each affected municipality using a form developed by and available from the board. The board will acknowledge receipt of a notice of termination by letter.

[Filed 11/25/08, effective 1/21/09]

[Published 12/17/08]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/17/08.