



IOWA ADMINISTRATIVE BULLETIN

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Pages 1167 to 1232

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

NOTE: In accordance with Iowa Code section 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 2011

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
19	Friday, March 4, 2011	March 23, 2011
20	Friday, March 18, 2011	April 6, 2011
21	Friday, April 1, 2011	April 20, 2011

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*****

The Administrative Rules Review Committee will hold its regular, statutory meeting on Friday, March 11, 2011, at 8:30 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Bureau[193]
 COMMERCE DEPARTMENT[181]"umbrella"
 Definitions; certification; licensure, 1.1, 3.6, 3.14, 3.15(2), 5.1(6), 5.2, 5.6(3), 7.6(3)
Notice **ARC 9370B** 2/23/11

AGING, DEPARTMENT ON[17]

Facility records; civil penalties, 8.3, 8.4 Filed **ARC 9349B** 2/9/11

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Debt collection—licensing sanctions, release of confidential information, 6.17, 7.1, 7.2
Filed **ARC 9390B** 2/23/11
 Grain transaction participation fee for grain dealers sand warehouse operators, amendments
 to chs 90 to 94 Filed **ARC 9388B** 2/23/11

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]
 COMMERCE DEPARTMENT[181]"umbrella"
 Intern development program supervisor—verification of hours of experience, 4.1(9) Filed **ARC 9359B** 2/9/11

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"
 Commission location and membership, 1.2 Filed **ARC 9391B** 2/23/11
 Registered nurse and nurse educator loan forgiveness program, 34.3(5) Filed **ARC 9392B** 2/23/11
 Teacher shortage loan forgiveness program, 35.4(3) Filed **ARC 9393B** 2/23/11

EDUCATIONAL EXAMINERS BOARD[282]

EDUCATION DEPARTMENT[281]"umbrella"
 Retention of incomplete applications, 12.9 Filed **ARC 9386B** 2/23/11
 Class B license, 13.11(1) Notice **ARC 9382B** 2/23/11
 Administrator licenses for applicants from non-Iowa preparation programs, 18.6 Filed **ARC 9383B** 2/23/11
 Class A administrator license, 18.7 Filed **ARC 9384B** 2/23/11
 Class B administrator license, 18.8 Filed **ARC 9385B** 2/23/11
 School business official authorization, 22.3, 22.4 Notice **ARC 9381B** 2/23/11

EDUCATION DEPARTMENT[281]

Interscholastic athletics—elimination of exemption from physical examination, 36.14(1)
Notice **ARC 9374B** 2/23/11
 Special education, amendments to ch 41 Filed **ARC 9376B** 2/23/11
 Special education—enforcement actions, 41.604 Filed **ARC 9375B** 2/23/11
 Bus driver training, 43.32 Notice **ARC 9372B** 2/23/11
 Standards for school business official preparation programs, ch 81 Notice **ARC 9379B** 2/23/11
 Removal of unreserved fund balances as classifications, 96.4(2)"h" Notice **ARC 9373B** 2/23/11
 Procedures for charging and investigating incidents of abuse by school employees,
 amendments to ch 102 Filed **ARC 9377B** 2/23/11
 Restraint, physical confinement and detention of students, 103.6"5," 103.8 Filed **ARC 9378B** 2/23/11

ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Professional Licensing and Regulation Bureau[193]
 COMMERCE DEPARTMENT[181]"umbrella"
 Academic transcripts, 3.1(3) Notice **ARC 9369B** 2/9/11

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"
 Air quality program—scope, services, and funding options, 22.1(3)"b," 22.106, ch 30, 33.1,
 33.2 Notice **ARC 9366B** 2/9/11
 Authorization permit for discharge of biological and chemical pesticides to waters of the
 United States, amendments to chs 60, 64, 66 Filed **ARC 9365B** 2/9/11
 Water quality—lake criteria, 61.3(4) Notice **ARC 9371B** 2/23/11
 NPDES General Permit No.5 for mining and processing facilities, 64.14, 64.15(5),
 64.16(3)"a"(5) Notice **ARC 9364B** 2/9/11

HUMAN SERVICES DEPARTMENT[441]

Collection of unpaid premiums assessed for medical assistance, 11.1, 76.2, 76.10(3), 76.12	
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Promoting awareness of the benefits of a healthy marriage, amendments to ch 47	<u>Filed</u> ARC 9350B 2/9/11
Medicaid remedial services—coverage as behavioral health intervention under Iowa Plan for Behavioral Health, 77.12, 78.12, 79.1, 79.3(2)“d,” 88.65	<u>Notice</u> ARC 9399B 2/23/11
Medicaid case management services—coverage and payment provisions, 78.3, 79.1, 90.5, 90.8(2)	<u>Notice</u> ARC 9367B
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Collection services center—electronic transmission of payments, 97.1, 97.4, 97.5	<u>Filed</u> ARC 9351B
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Review, adjustment, and modification of court orders for child and medical support, amendments to ch 99	<u>Filed</u> ARC 9352B 2/9/11
Foster group care facilities and juvenile shelter and detention facilities, amendments to chs 105, 114, 115	<u>Notice</u> ARC 9368B
.....	2/9/11
Child abuse prevention program, ch 155	<u>Notice</u> ARC 9348B 2/9/11
Family-centered child welfare services, amendments to ch 172	<u>Notice</u> ARC 9353B 2/9/11

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

Individual health insurance for children under the age of 19, 15.11(6), 36.13	<u>Notice</u> ARC 9398B 2/23/11
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INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

Registration renewal, 2.1(4)	<u>Notice</u> ARC 9347B
.....	2/9/11

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Contribution rates; administration of marital property orders; covered wage limits, 4.3, 4.6, 6.1, 6.4(2), 16.2, 21.1(4)	<u>Filed</u> ARC 9397B 2/23/11
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NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]“umbrella”

Concessions, 14.1 to 14.6	<u>Notice</u> ARC 9363B
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Chiropractic physicians—renewal notices, 41.8(1)	<u>Notice</u> ARC 9354B 2/9/11
Physician assistants—category II continuing education, 328.3(2)“b”	<u>Notice</u> ARC 9360B 2/9/11

PUBLIC HEALTH DEPARTMENT[641]

Iowa fatality review committee, 92.2 to 92.4, 92.6	<u>Filed</u> ARC 9355B
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Emergency medical services advisory council representatives, 130.3	<u>Filed</u> ARC 9356B 2/9/11
EMS—removal of references to basic care, 132.1, 132.7(5), 132.8	<u>Filed</u> ARC 9357B
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REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Bureau[193]

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Enforcement of a protective clause, 11.2	<u>Notice</u> ARC 9389B 2/23/11
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REGENTS BOARD[681]

Prohibited interest in public contracts, 8.9	<u>Filed</u> ARC 9395B 2/23/11
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UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

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

EDITOR'S NOTE: Terms ending April 30, 2011.

Senator Merlin Bartz
2081 410th Street
Grafton, Iowa 50440

Senator Thomas Courtney
2200 Summer Street
Burlington, Iowa 52601

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator James Seymour
901 White Street
Woodbine, Iowa 51579

Joseph A. Royce
Legal Counsel
Capitol
Des Moines, Iowa 50319
Telephone (515)281-3084
Fax (515)281-8451

Representative David Heaton
510 East Washington Street
Mt. Pleasant, Iowa 52641

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Janet Petersen
4300 Beaver Hills Drive
Des Moines, Iowa 50310

Representative Dawn Pettengill
P.O. Box 76
Mt. Auburn, Iowa 52313

Representative Linda Upmeyer
2175 Pine Avenue
Garner, Iowa 50438

Brenna Findley
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

EDUCATIONAL EXAMINERS BOARD[282]

Class B license, 13.11(1) IAB 2/23/11 ARC 9382B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	March 16, 2011 1 p.m.
School business official authorization, 22.3, 22.4 IAB 2/23/11 ARC 9381B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	March 16, 2011 1 p.m.

EDUCATION DEPARTMENT[281]

Standards for school business official preparation programs, ch 81 IAB 2/23/11 ARC 9379B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	March 15, 2011 9 to 10 a.m.
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ENGINEERING AND LAND SURVEYING EXAMINING BOARD[193C]

Academic transcripts, 3.1(3) IAB 2/9/11 ARC 9369B	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	March 16, 2011 1 to 4:30 p.m.
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ENVIRONMENTAL PROTECTION COMMISSION[567]

Air quality program—scope, services and funding options, 22.1(3)“b,” 22.106, ch 30, 33.1, 33.2 IAB 2/9/11 ARC 9366B	Air Quality Bureau 7900 Hickman Rd. Windsor Heights, Iowa	March 11, 2011 1 to 3 p.m.
Water quality—lake criteria, 61.3(4) IAB 2/23/11 ARC 9371B	Falcon Civic Center 1305 5th Ave. NE Independence, Iowa	March 23, 2011 10 a.m.
	State Bank Room Public Library 115 West Washington St. Washington, Iowa	March 23, 2011 4 p.m.
	Public Library 200 North Fourth St. Clear Lake, Iowa	March 24, 2011 10 a.m.
	Fifth Floor Conference Rooms Wallace State Office Building 502 East 9th St. Des Moines, Iowa	March 25, 2011 1 p.m.
	Rock Island Depot 102 Chestnut St. Atlantic, Iowa	March 29, 2011 10 a.m.
	Waite Building Iowa Lakeside Laboratory 1838 Hwy 86 Milford, Iowa	March 29, 2011 6 p.m.
	Public Library 803 Braden Ave. Chariton, Iowa	March 31, 2011 4 p.m.
NPDES General Permit No. 5 for mining and processing facilities, 64.14, 64.15(5), 64.16(3)“a” IAB 2/9/11 ARC 9364B	Fourth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	March 8, 2011 1 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION[605]

Emergency management performance grant—allocation and distribution process, 7.7 IAB 1/26/11 ARC 9345B	Room 5, Rural Health Education Center Indian Hills Community College 525 Grandview Ave. Ottumwa, Iowa	February 24, 2011 7 p.m.
	Floyd County Courthouse 101 South Main St. Charles City, Iowa	February 28, 2011 7 p.m.
	Johnson Cty. Emergency Operations Center 4529 Melrose Ave. Iowa City, Iowa	March 1, 2011 7 p.m.
	Polk Cty. Emergency Operations Center 1907 Carpenter Ave. (east entrance) Des Moines, Iowa	March 8, 2011 7 p.m.

HUMAN SERVICES DEPARTMENT[441]

Medicaid remedial services—coverage as behavioral health intervention under Iowa Plan for Behavioral Health, 77.12, 78.12, 79.1, 79.3(2)“d,” 88.65 IAB 2/23/11 ARC 9399B	First Floor SE Conference Room 1 Hoover State Office Bldg. Des Moines, Iowa	March 16, 2011 10:30 a.m. to 12 noon
Foster group care, juvenile shelter, and detention facilities, amendments to chs 105, 114, 115 IAB 2/9/11 ARC 9368B	First Floor SE Conference Rooms 1 and 2 Hoover State Office Bldg. Des Moines, Iowa	March 3, 2011 1 to 2:30 p.m.

INSURANCE DIVISION[191]

Individual health insurance for children under the age of 19, 15.11(6), 36.13 IAB 2/23/11 ARC 9398B	Division Offices 330 Maple St. Des Moines, Iowa	March 23, 2011 10 a.m.
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INTERIOR DESIGN EXAMINING BOARD[193G]

Registration renewal, 2.1(4) IAB 2/9/11 ARC 9347B	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	March 1, 2011 9 a.m.
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NATURAL RESOURCE COMMISSION[571]

Concessions, 14.1 to 14.6 IAB 2/9/11 ARC 9363B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	March 1, 2011 2 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians— renewal notices, 41.8(1) IAB 2/9/11 ARC 9354B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 1, 2011 1:30 to 2 p.m.
Physician assistants—category II continuing education, 328.3(2)“b” IAB 2/9/11 ARC 9360B	Fifth Floor Board Conference Room Lucas State Office Bldg. Des Moines, Iowa	March 1, 2011 2 to 2:30 p.m.

REAL ESTATE COMMISSION[193E]

Enforcement of a protective clause, 11.2 IAB 2/23/11 ARC 9389B	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	March 15, 2011 1 p.m.
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The following list will be updated as changes occur.

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

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

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

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ARC 9370B

ACCOUNTANCY EXAMINING BOARD[193A]

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 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Definitions,” Chapter 3, “Certification of CPAs,” Chapter 5, “Licensure Status and Renewal of Certificates and Licenses,” and Chapter 7, “Certified Public Accounting Firms,” Iowa Administrative Code.

The proposed amendment to Chapter 1 adds new definitions for “IFRS” (International Financial Reporting Standards) since the U.S. Securities and Exchange Commission is continuing its movement toward replacing GAAP (Generally Accepted Accounting Principles) with IFRS; “IASB” (International Accounting Standards Board), which is the board charged with writing and implementing IFRS; and “ALD” (Accountancy Licensing Database), which is a resource provided by the National Association of State Boards of Accountancy (NASBA) for accounting licensee searches.

The proposed amendments to Chapter 3 rescind subrules 3.6(1) and 3.6(3) as these subrules are no longer necessary because of the computerized CPA examination; add the phrase “or on the board’s Web site” to subrule 3.14(1) to be consistent with other subrules and to direct users to where forms and resources may be found; update the cross reference in subrule 3.14(2) to correspond to the correct rule in rewritten Chapter 10, which became effective January 1, 2011; and update the cross reference in subrule 3.15(2) to correspond to the correct subrule in rewritten Chapter 13, which became effective January 1, 2011.

The proposed amendments to Chapter 5 add a reference to NASBA’s ALD in subrule 5.1(6), which currently states that there is not a national licensee database; rescind rule 193A—5.2(542) because the license renewal period for June 30, 2010, has passed; and update the cross reference in paragraph 5.6(3)“c” to correspond to the correct subrule in rewritten Chapter 10.

The proposed amendment to Chapter 7 adds the phrase “including a list of Iowa clients and the services performed” to subrule 7.6(3) to be consistent with the reinstatement application.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before March 15, 2011. Comments should be addressed to Jodi Adams, Accountancy Examining Board, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to jodi.adams@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A, 272C, 542, and 546.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definitions of “ALD,” “IASB” and “IFRS” in rule **193A—1.1(542)**:

“*ALD*” means Accountancy Licensing Database.

“*IASB*” means International Accounting Standards Board.

“*IFRS*” means International Financial Reporting Standards.

ACCOUNTANCY EXAMINING BOARD[193A](cont'd)

ITEM 2. Rescind subrule **3.6(1)**.

ITEM 3. Renumber subrule **3.6(2)** as **3.6(1)**.

ITEM 4. Rescind subrule **3.6(3)**.

ITEM 5. Renumber subrule **3.6(4)** as **3.6(2)**.

ITEM 6. Amend subrule 3.14(1) as follows:

3.14(1) A candidate who successfully passes the examination, completes the ethics course and examination and meets all of the requirements outlined in rule 193A—3.1(542) shall make application for the certificate on a form which may be obtained from the board office or on the board's Web site. An applicant for a certificate may be denied the certificate for reasons outlined in subrule 3.4(3), 3.4(4), or 3.4(5) regardless of when the incident occurred.

ITEM 7. Amend subrule 3.14(2) as follows:

3.14(2) A candidate who meets the requirements for a certificate outlined in rule 193A—3.1(542) shall file an application for a certificate within three years of the date of passing the examination. If the candidate does not file an application for a certificate within the required time frame, the candidate must comply with the basic continuing education requirements outlined in ~~193A—10.3(542)~~ rule 193A—10.5(542) prior to filing an application. The required continuing education hours shall include a minimum of ~~seven~~ eight hours of continuing education every three years devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates.

ITEM 8. Amend subrule 3.15(2) as follows:

3.15(2) Rules regarding the use of the title “CPA” in a firm name are found at 193A—subrule ~~13.6(5)~~ 13.4(14).

ITEM 9. Amend subrule 5.1(6) as follows:

5.1(6) Exercising a practice privilege in Iowa or for a client with a home office in Iowa while holding an inactive or lapsed Iowa CPA certificate places a special burden on the individual to ensure that the public is informed about the individual's licensure status in Iowa and in the jurisdiction of active licensure, as provided in 193A—paragraphs 20.8(2) “b” and 20.8(3) “b.” As a practical matter, an individual's failure to clarify licensure status in Iowa and in the jurisdiction of the individual's principal place of business may confuse the public. ~~There is no~~ However, the public may consult ALD, a comprehensive national data bank, that the public may consult to verify an individual's licensure in another jurisdiction, and a. ALD may be accessed at www.NASBA.org. A client contacting the board or consulting the board's Web site will be informed that the individual is not actively licensed in Iowa of the individual's licensure status in Iowa and in the individual's jurisdiction of active licensure. The board will have no record of an individual's exercise or purported exercise of a practice privilege.

ITEM 10. Rescind and reserve rule ~~193A—5.2(542)~~.

ITEM 11. Amend paragraph **5.6(3)“c”** as follows:

c. Providing evidence of completed continuing education outlined in rule ~~193A—10.3(542)~~ 193A—10.5(542), if the licensee wishes to reinstate to active status; and

ITEM 12. Amend subrule 7.6(3) as follows:

7.6(3) The board may reinstate the permit upon payment of the proper renewal fee and a penalty as provided in rule 193A—12.1(542). The board shall also require a written statement outlining the firm's professional activities during the period of lapsed licensure, including a list of Iowa clients and the services performed.

ARC 9382B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

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

This amendment is intended to clarify what constitutes a valid license for an individual seeking a Class B license. Class B licenses may not be issued to individuals who hold a substitute license or authorization, a statement of professional recognition, a career and technical license or endorsement, a behind-the-wheel authorization, or an intern license.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, March 16, 2011, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, March 18, 2011. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is proposed.

Amend subrule 13.11(1) as follows:

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

ARC 9381B**EDUCATIONAL EXAMINERS BOARD[282]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 22, “Authorizations,” Iowa Administrative Code.

2010 Iowa Acts, House File 2461, requires the Board to establish a new authorization for school business officials. The amendments proposed herein are intended to meet the new statutory requirements.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Wednesday, March 16, 2011, at 1 p.m. in Room 3 Southwest, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

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

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

Any interested person may make written comments or suggestions on the proposed amendments before 4 p.m. on Friday, March 18, 2011. Written comments and suggestions should be addressed to Kim Cunningham, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to kim.cunningham@iowa.gov, or by fax to (515)281-7669.

These amendments are intended to implement Iowa Code section 272.31.

The following amendments are proposed.

ITEM 1. Renumber rule **282—22.3(272)** as **282—22.4(272)**.

ITEM 2. Adopt the following **new** rule 282—22.3(272):

282—22.3(272) School business official authorization.

22.3(1) Application for authorization. Effective July 1, 2012, a person who is interested in a school business official authorization will be required to apply for an authorization.

22.3(2) Responsibilities. A school business official authorization allows an individual to perform, supervise, and be responsible for the overall financial operation of a local school district.

22.3(3) Application process. Any person interested in the school business official authorization shall submit records of credit to the board of educational examiners for an evaluation in terms of the required courses or contact hours. Application materials are available from the office of the board of educational examiners, online at <http://www.boee.iowa.gov/>, or from institutions or agencies offering approved courses or contact hours.

22.3(4) Specific requirements for an initial school business official authorization. Applicants for an initial school business official authorization shall have completed the following requirements:

a. Education. Applicants must have a minimum of an associate’s degree in business or accounting or 60 semester hours of coursework in business or accounting of which 9 semester hours must be in accounting.

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

If the applicant has not completed 9 semester hours in accounting but has 6 or more semester hours in accounting, the applicant may be issued a temporary school business official authorization valid for one year.

(1) A temporary initial school business official authorization may be issued if requested by the district. A district administrator may file a written request with the executive director for an exception to the minimum content requirements on the basis of documented need and benefit to the district. The executive director will review the request and provide a written decision either approving or denying the request.

(2) If the 9 semester hours of accounting are not completed within the time allowed, the applicant will not be eligible for the initial school business official authorization.

(3) If the applicant received a temporary school business authorization, then the initial school business authorization shall not exceed one year.

b. Minimum age. Applicants must have attained a minimum age of 18 years.

c. Iowa division of criminal investigation background check. Applicants must have successfully completed an Iowa division of criminal investigation background check. The background check fee will be assessed to the applicant.

d. National criminal history background check. Applicants must have successfully completed a national criminal history background check. The background check fee will be assessed to the applicant.

22.3(5) Specific requirements for a standard school business official authorization.

a. A standard school business official authorization will be valid for three years and may be issued to an applicant who meets the requirements set forth in subrules 22.3(3) to 22.3(5).

b. Requirements.

(1) Applicants must complete 9 semester hours or the equivalent (1 semester hour is equivalent to 15 contact hours) in an approved program in the following areas/competencies:

1. Accounting (GAAP) concepts: fund accounting, account codes, Uniform Financial Accounting.

2. Accounting cycles: budgets, payroll/benefits, purchasing/inventory, cash, receipts, disbursements, financial reporting, investments.

3. Technology: management of accounting systems, proficiency in understanding and use of systems technology and related programs.

4. Regulatory: Uniform Administrative Procedures Manual, school policies and procedures, administrative procedures, public records law, records management, school law, employment law, construction and bidding law.

5. Personal skills: effective communication and interpersonal skills, ethical conduct, information management, ability to analyze and evaluate, ability to recognize and safeguard confidential information, and accurate and timely performance.

(2) Applicants shall demonstrate completion of or competency in the following:

1. A board of educational examiners ethics program.

2. A mentoring program as described in 281—Chapter 81.

3. The promotion of the value of the school business official's fiduciary responsibility to the taxpayer.

22.3(6) Validity.

a. The initial school business official authorization shall be valid for two years from the date of employment.

b. The standard school business official authorization shall be valid for three years, and it shall expire three years from the date of issuance on the last day of the practitioner's birth month.

22.3(7) Renewal. The authorization may be renewed upon application and verification of successful completion of:

a. Renewal activities.

(1) In addition to the child and dependent adult abuse mandatory reporter training listed below, the applicant for renewal must complete 4 semester hours of credit or the equivalent contact hours (1

EDUCATIONAL EXAMINERS BOARD[282](cont'd)

semester hour is equivalent to 15 contact hours) within three years, with a minimum of 1 semester hour or its equivalent completed in each year of the authorization.

(2) Failure to complete requirements for renewal in each calendar year will require petition for waiver from the board. The applicant must petition the board for waiver of the annual requirement.

b. Child and dependent adult abuse mandatory reporter training. Every renewal applicant must submit documentation of completion of the child and dependent adult abuse mandatory reporter training approved by the state abuse education review panel. A waiver of this requirement may apply under any of the following appropriately documented conditions:

(1) The person is engaged in active duty in the military service of this state or of the United States.

(2) The application of this requirement would impose an undue hardship on the person for whom the waiver is requested.

(3) The person is practicing in a licensed profession outside this state.

(4) The person is otherwise subject to circumstances that would preclude the person from satisfying the approved child and dependent adult abuse mandatory reporter training in this state.

(5) The person has previously renewed a license or another authorization issued by the board of educational examiners and, at that time, reported the completion, within the past five years, of child and dependent adult abuse mandatory reporter training approved by the state abuse education review panel.

22.3(8) *Revocation and suspension.* Criteria of professional practice and rules of the board of educational examiners shall be applicable to the holders of the school business official authorization.

22.3(9) *Approval of courses.* Each institution of higher education, private college or university, merged area school or area education agency and professional organization that wishes to offer the semester credit hours or contact hours for the school business official authorization must submit course descriptions for each offering to the board of educational examiners for approval. After initial approval, any changes by agencies or institutions in course offerings shall be filed with the board of educational examiners.

ARC 9374B

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 36, “Extracurricular Interscholastic Competition,” Iowa Administrative Code.

The proposed amendment eliminates a religious beliefs-based exemption to the requirement that all secondary students who desire to participate in interscholastic athletics undergo a physical examination prior to such participation. Department staff have researched the issue and determined that there is no basis for the exemption, and as a matter of student safety, the language allowing the exemption should be stricken.

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

Interested individuals may make written comments on the proposed amendment on or before March 15, 2011, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

This amendment is intended to implement Iowa Code section 280.13.

The following amendment is proposed.

EDUCATION DEPARTMENT[281](cont'd)

Amend subrule 36.14(1) as follows:

36.14(1) Physical examination. Every year each student shall present to the student's superintendent a certificate signed by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner, to the effect that the student has been examined and may safely engage in athletic competition.

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination completed that the affidavit required by Iowa Code section 151.8 is on file with the Iowa board of chiropractic examiners.

The certificate of physical examination is valid for the purpose of this rule for one calendar year. A grace period not to exceed 30 days is allowed for expired physical certifications.

~~A student shall not be required to submit to a physical examination if the student's parent or 18-year-old student submits to a school administrator an affidavit that the physical examination requirement conflicts with the tenets and practice of a recognized religious denomination of which the student is an adherent or member.~~

ARC 9372B

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 43, “Pupil Transportation,” Iowa Administrative Code.

Because the training for new bus drivers is more extensive and comprehensive than was the former training, it is no longer necessary for new drivers to be required to take the annual training in the year in which they must receive the new training. However, an employer retains the power to require additional training, at the discretion of the employer.

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

Interested individuals may make written comments on the proposed amendment on or before March 15, 2011, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

This amendment is intended to implement Iowa Code chapter 285.

The following amendment is proposed.

Amend rule 281—43.32(285) as follows:

281—43.32(285) Drivers' schools. All school bus drivers shall attend classes or schools of instruction as approved by the department of education and provided for in Iowa Code subsection 321.376(2). ~~The course of instruction for new drivers, to be successfully completed within the first six months of employment, shall also include the annual course of instruction for the school year in which the new driver is hired.~~ All new drivers shall, within the first six months of employment, successfully complete the “new driver STOP class” approved by the department. All current school bus drivers shall attend the only annual course of instruction, unless the current driver misses a year of instruction. Upon missing a year of instruction, a current driver shall successfully complete the course of instruction for new drivers prior to receiving an authorization. The employer of a school bus driver may impose additional training requirements for any new or current driver.

ARC 9379B**EDUCATION DEPARTMENT[281]****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 256.7(5), the State Board of Education hereby proposes to adopt new Chapter 81, “Standards for School Business Official Preparation Programs,” Iowa Administrative Code.

This chapter provides standards and procedures for the approval of training programs for individuals who seek authorization issued by the Board of Educational Examiners for employment as school business officials responsible for the financial operations of a school district.

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

Interested individuals may make written comments on the proposed amendment on or before March 15, 2011, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on March 15, 2011, from 9 to 10 a.m. in the State Board Room, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should advise the Department of Education of their specific needs by calling (515)281-5295.

This amendment is intended to implement 2010 Iowa Acts, chapter 1099.

The following amendment is proposed.

Adopt the following **new** 281—Chapter 81:

CHAPTER 81

STANDARDS FOR SCHOOL BUSINESS OFFICIAL PREPARATION PROGRAMS

281—81.1(256) Definitions.

“*Area education agency*” or “*AEA*” means a regional service agency that provides school improvement services for students, families, teachers, administrators, and the community.

“*Department*” means the department of education.

“*Director*” means the director of the department of education.

“*Institution*” means a public or private institution of higher education, an AEA, or a professional organization offering a school business official preparation program(s) and renewal credits.

“*Novice*” means an individual in a school business official position who has no previous experience in that position or who is newly authorized by the board of educational examiners.

“*School business official candidates*” means individuals who are enrolled in school business official preparation programs leading to authorization by the board of educational examiners to practice as school business officials.

“*School business official preparation programs*” means the programs of school business official preparation that lead to authorization to practice as a school business official.

“*State board*” means the Iowa state board of education.

EDUCATION DEPARTMENT[281](cont'd)

281—81.2(256) Institutions eligible to provide a school business official preparation program. Institutions of public and private higher education, AEAs, and professional organizations engaged in the preparation of school business officials shall meet the standards contained in this chapter in order to obtain and maintain state board approval of their programs. Each institution that seeks state board approval of its programs for school business official preparation shall file evidence of the extent to which each program meets the standards contained in this chapter. Such evidence shall be demonstrated by means of a written self-evaluation report and an evaluation conducted by the department and shall be prepared using a template developed by the department. Only approved programs may recommend candidates for school business official authorization.

281—81.3(256) Approval of programs. Approval by the state board of an institution's school business official preparation program shall be based on the recommendation of the director after study of the factual and evaluative evidence on record about each program in terms of the standards contained in this chapter.

81.3(1) Approval, if granted, shall be for a term of seven years; however, approval for a lesser term may be granted by the state board if it determines conditions so warrant.

81.3(2) If approval is not granted, the applicant institution will be advised concerning the areas in which improvement or changes appear to be essential for approval. In this case, the institution shall be given the opportunity to present factual information concerning its programs at a regularly scheduled meeting of the state board, no later than three months following the board's initial decision.

81.3(3) Programs may be granted conditional approval upon review of appropriate documentation. In such an instance, the program shall receive a full review after one year or, in the case of a new program, at the point at which candidates demonstrate mastery of standards for authorization.

81.3(4) The standards herein apply regardless of delivery mode of instruction.

281—81.4(256) Governance and resources standard. An institution's governance structure and resources shall adequately support the preparation of school business official candidates to meet professional, state, and institutional standards in accordance with the following provisions.

81.4(1) A clearly understood governance structure provides guidance and support for the school business official preparation program.

81.4(2) Procedures for an appeals process for candidates are clearly communicated and provided to all candidates.

81.4(3) The program administers a comprehensive evaluation system designed to enhance the teaching competence and intellectual vitality of the professional educational institution.

81.4(4) Institutional commitment to the program includes financial resources, facilities, appropriate educational materials, media services including library services, and equipment to ensure the fulfillment of the institution's and program's missions and the delivery of quality programs.

81.4(5) The institution provides sufficient instructors and administrative, clerical, and technical staff to plan and deliver a quality school business official preparation program.

81.4(6) Resources are available to support professional development opportunities for instructors.

81.4(7) Resources are available to support technological and instructional needs to enhance candidate learning.

281—81.5(256) Instructor standard. Instructor qualifications and performance shall facilitate the professional development of school business official candidates in accordance with the following provisions.

81.5(1) Instructors are adequately prepared for assigned responsibilities and have had experiences relative to the curricula the instructors are teaching and in situations similar to those for which the school business official candidates are being prepared. Instructors have experience and adequate preparation in effective methods for any mode of program delivery in which the instructors are assigned responsibilities.

81.5(2) Instructors instruct and model best practices in teaching, including the assessment of the instructors' own effectiveness as it relates to candidate performance.

EDUCATION DEPARTMENT[281](cont'd)

81.5(3) Instructors are engaged in professional development that relates to school business official preparation.

81.5(4) Instructors collaborate regularly and in significant ways with colleagues in the institution and other institutions, schools, the department, and professional associations as well as with community representatives.

81.5(5) Part-time instructors and graduate assistants are identified as instructors and meet the background and experience requirements appropriate for the instructors' and assistants' assigned responsibilities.

281—81.6(256) Assessment system and institution evaluation standard. The institution's assessment system shall appropriately monitor individual candidate performance and use the performance data in concert with other information to evaluate and improve the institution and its programs.

81.6(1) Program assessment system.

a. The program utilizes a clearly defined management system for the collection, analysis, and use of assessment data.

b. The institution clearly documents candidates' attainment of the program standards.

c. The institution demonstrates the propriety, utility, accuracy and fairness of both the overall assessment system and the instruments used and provides scoring rubrics or other criteria used in evaluation instruments.

d. The institution documents the quality of programs through the collective presentation of assessment data related to performance of school business official candidates. Documentation shall include the following:

(1) Data collected throughout the program, including data from all delivery models;

(2) Evidence of evaluative data collected from school business officials who work with the program's candidates; and

(3) Evidence of evaluative data collected by the institution through follow-up studies of graduates and their employers.

e. The institution explains the process for reviewing and revising the assessment system.

f. The institution demonstrates how the information gathered by the institution and from the performance assessment system for candidates is shared with instructors and other stakeholders and used for program improvement.

81.6(2) Performance assessment system for candidates.

a. The performance assessment system for candidates is an integral part of the institution's planning and evaluation system.

b. The performance assessment system for candidates includes a coherent, sequential assessment system for individual school business official candidates. The assessment system is shared with instructors to provide guidance for course and program improvement. The assessment system also provides ongoing feedback to school business official candidates about their achievement of program standards and guidance for reflection and improvement. Data are drawn from multiple formative and summative assessments of institutional evaluation of the candidates' content knowledge and professional knowledge and from application of this knowledge to the necessary skills and attributes appropriate for a novice school business official.

c. School business official candidate performance is assessed at the same standard regardless of the place or manner in which the program is delivered.

81.6(3) Annual reports. The institution annually reports to the department such data as are required by the state and federal governments at dates determined by the department.

81.6(4) Survey of graduates. The department periodically conducts a survey of schools, agencies, or facilities that employ licensed graduates of approved programs to ensure that the graduates' needs are adequately met by their programs and by the approval process herein.

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281—81.7(256) School business official candidate knowledge and skills standard. School business official candidates shall demonstrate the content knowledge and professional knowledge and skills in accordance with the following provisions.

81.7(1) Each school business official candidate shall demonstrate through coursework the knowledge, skills, and other attributes necessary to meet the following standards at a level appropriate for a novice school business official. Each school business official candidate shall acquire the content knowledge and demonstrate competencies in the following areas:

a. Accounting (GAAP) concepts: fund accounting, account codes, Uniform Financial Accounting.

b. Accounting cycles: budgets, payroll/benefits, purchasing/inventory, cash, receipts, disbursements, financial reporting, investments.

c. Technology: management of accounting systems, proficiency in understanding and use of systems technology and related programs.

d. Regulatory: Uniform Administrative Procedures Manual, school policies and procedures, administrative procedures, public records law, records management, school law, employment law, construction and bidding law.

e. Personal skills: effective communication and interpersonal skills, ethical conduct, information management, ability to analyze and evaluate, ability to recognize and safeguard confidential information, and accurate and timely performance.

f. Participation in the board of educational examiners ethics program.

g. Participation in the school business official mentoring program.

h. Promotion of the value of the school business official's fiduciary responsibility to the taxpayer.

81.7(2) Each school business official candidate shall meet all requirements established by the board of educational examiners for an authorization for which the candidate is recommended. Programs shall submit curriculum exhibit sheets for approval by the board of educational examiners and the department.

281—81.8(256) School business official mentoring program. The one-year mentoring program and its partners shall assist candidates in becoming successful school business officials in accordance with the following provisions. The candidate must be employed as a school business official to be eligible to participate in the mentoring program.

81.8(1) Candidates admitted to a school business official preparation program shall participate in the mentoring program. All hours spent in the mentoring program are outside of the nine semester hours required in the program.

81.8(2) Each school business official preparation program shall inform all candidates of the following minimum expectations of the candidates as mentees:

a. Participation in weekly conversations with the mentee's mentor, including a review of work assignments.

b. Maintenance of a record of contacts with the mentor and submission of the record to the program. A template will be provided by the program.

c. Completion of surveys to assist with program evaluation.

d. Communication with the program if the relationship with the mentee's mentor is not meeting the needs or expectations of the mentee.

e. Full participation in the mentoring program throughout the one-year period.

81.8(3) Each school business official preparation program shall inform all program candidate mentors of the following minimum expectations:

a. Contacting the mentee on a weekly basis.

b. Completing surveys to assist with program evaluation.

c. Informing the program if the relationship with the mentee is not meeting expectations.

d. Maintaining confidentiality of the interactions between mentor and mentee.

e. Supporting the mentee throughout the one-year period.

81.8(4) The institution shall offer one or more workshops annually for all cooperating mentors to define the objectives of the mentoring program, review the responsibilities of the cooperating mentors,

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and provide the cooperating mentors other information and assistance the institution deems necessary. The workshops shall utilize delivery strategies identified as appropriate for staff development and reflect information gathered through feedback from workshop participants.

281—81.9(256) Periodic reports. Upon request by the department, programs shall make periodic reports which shall include, but not be limited to, basic information necessary to maintain up-to-date records of each school business official preparation program and to carry out research studies relating to school business official preparation.

281—81.10(256) Reevaluation of school business official preparation programs. Every seven years or at any time deemed necessary by the director, an institution shall file a written self-evaluation of its school business official preparation program. Any action for continued approval or rescission of approval shall be approved by the state board.

281—81.11(256) Approval of program changes. Upon application by an institution, the director is authorized to approve minor additions to or changes within the curriculum of an institution's approved school business official preparation program. When an institution proposes a revision that exceeds the primary scope of its programs, the revision shall become operative only after approval by the state board.

These rules are intended to implement Iowa Code section 256.7 as amended by 2010 Iowa Acts, chapter 1099.

ARC 9373B

EDUCATION DEPARTMENT[281]

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 256.7(5), the State Board of Education hereby proposes to amend Chapter 96, “Statewide/Local Option Sales and Services Tax for School Infrastructure,” Iowa Administrative Code.

As of June 30, 2010, unreserved, undesignated fund balances ceased to exist as classifications pursuant to Statement 54 issued by the Governmental Accounting Standards Board (GASB 54). The proposed amendment conforms the rules to comply with GAAP (Generally Accepted Accounting Principles).

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

Interested individuals may make written comments on the proposed amendment on or before March 15, 2011, at 4:30 p.m. Comments on the proposed amendment should be directed to Su McCurdy, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail su.mccurdy@iowa.gov; or fax (515)281-8777.

This amendment is intended to implement Iowa Code chapters 423E and 423F and GASB 54.

The following amendment is proposed.

Amend paragraph **96.4(2)“h”** as follows:

h. Evidence of a healthy financial condition and long-term financial stability. The school district shall provide:

(1) Calculation of unspent balance on the generally accepted accounting principles (GAAP) basis. The calculation shall include five years of history and three years of projected balances. The calculation of budget authority shall show and project the effect of the phaseout of the budget guarantee. Projected allowable growth shall be that known or generally anticipated at the time of the application. If the percent

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of allowable growth is not known or anticipated, an allowable growth of no more than 2 percent shall be utilized in the annual projections.

(2) If the unspent balance is negative in any current or projected year on the GAAP basis, the school district shall include a copy of the corrective action plan, if any, submitted to the SBRC.

(3) Calculation of ~~unreserved~~ fund balance on the GAAP basis by fund. The calculation shall include five years of history and three years of projected balances.

ARC 9371B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 61, “Water Quality Standards,” Iowa Administrative Code.

Iowa Code sections 455B.171 through 455B.183 establish requirements for the protection and management of surface water quality. The Environmental Protection Commission, through the assistance of the Department, promulgates administrative rules on water quality. Iowa’s Water Quality Standards (WQS) are written into regulation at Chapter 61.

The Department appointed Mike Burkhart, a professor at Iowa State University, to head a science advisory panel to research nutrients and their effects on recreational uses, such as swimming, in Iowa lakes. In February 2008, the nutrient science advisors (NSA) completed their recommendations for criteria for recreational uses in lakes. The report can be found on the Department’s Web site at: <http://www.iowadnr.gov/water/standards/nutrients.html>. Based on the recommendations in the NSA report, the Department has developed draft criteria necessary to support swimming.

The NSA recommended setting two criteria that are necessary to support swimming: (1) Secchi disk depth of one meter or greater; and (2) chlorophyll-a at no higher than 25 micrograms per liter ($\mu\text{g/l}$). Both of these criteria are measures of the transparency of the water. A Secchi disk is a black and white disk developed to accurately and precisely measure how far light penetrates into the water. The disk is lowered into the water on a rope, and the depth at which the disk can still be seen is recorded. Chlorophyll-a is the pigment in algae that can make the water appear green in the summer. The clarity of the water is important for swimmers so underwater hazards can be avoided. Studies show that people are more likely to swim in lakes where the water is clearer than where it is turbid or green.

In addition to the clarity criteria discussed above, the NSA report also recommended establishing criteria for total phosphorus of 35 $\mu\text{g/l}$ and total nitrogen of 900 $\mu\text{g/l}$. Criteria for total phosphorus and total nitrogen are not included in this rule making because the Department’s analysis of the data shows that the correlation between total phosphorus and water clarity is not strong enough to warrant setting a standard that would apply to lakes across the state. Studies have shown that a stronger relationship between total phosphorus and water clarity can be drawn when a single lake is studied, but the relationship breaks down when data from multiple lakes are examined. The relationship between total nitrogen and water clarity is weaker than the relationship between total phosphorus and water clarity.

After reviewing a comprehensive list of Iowa lakes on an individual basis, the Department has developed a list of lakes to which the clarity criteria will apply. The criteria used for selection of the lakes are discussed below. A complete list of lakes reviewed for inclusion can be found on the Department’s Web site at: <http://www.iowadnr.gov/water/standards/nutrients.html>.

A lake was added to the list if the lake has a maintained beach, appears on the list of significant publicly owned lakes or has a mean depth of more than three meters (9.9 feet). Lakes with a very large

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

drainage area to surface area ratio (DA/SA ratio), lakes where swimming is prohibited, and privately owned lakes were not added to the list. More details on the criteria used for the selection of lakes are discussed below.

Beaches: All lakes with a maintained swimming beach (except impoundments with large DA/SA ratios) are to be included in the list. The clarity criteria are intended to determine whether the water quality in a lake can fully support recreational uses, and any lake that encourages swimming should be included regardless of the lake's mean depth or whether the lake is a significant publicly owned lake.

SPOL: All lakes considered to be a significant publicly owned lake (SPOL), except impoundments with large DA/SA ratios and lakes where swimming is prohibited, are included on the list. The definition of SPOL was created in 1980 by the Department and Iowa State University to determine which lakes should receive continuous monitoring. Significant publicly owned lakes are defined as those lakes which are principally maintained for public use, contain a minimum surface area of 10 acres and are capable of supporting fish stocks of at least 200 pounds per acre. It was decided that if a lake meets the definition of an SPOL, it should be included on the list of lakes to which the clarity criteria apply.

Mean Depth: All lakes with a mean depth of three meters (9.9 feet) or greater (except impoundments with large DA/SA ratios and lakes where swimming is prohibited) are included on the list. Any lake may become a swimming hole, but deeper lakes are typically considered to be more enticing and have more recreational potential than shallow ones and should be protected to allow for swimming.

DA/SA Ratio: Reservoirs and on-stream impoundments with a large drainage area to surface area ratio have high flow-through rates and are considered to be more like a river than a lake and should not be subject to nutrient standards intended for lakes. These water bodies were excluded from the list regardless of whether they had beaches, met the mean depth requirement, or were considered to be an SPOL.

Swimming Prohibited: Swimming is prohibited in the majority of lakes used as a drinking water supply by the municipal drinking water utility that owns the lake. These lakes were excluded from the list even if they met the SPOL or mean depth criteria. It was decided that criteria focused on swimming should not be applied to lakes that do not allow such use.

Privately Owned Lakes: Lakes that do not allow for public access are excluded from the list.

This proposed rule making is part of a wider effort to define how clean Iowa's lakes and streams should be in relation to excess nutrients. The Department is also looking at nutrients in two other major projects:

The Department has contracted with Iowa State University to develop an Index of Biotic Integrity (IBI) for lakes that will describe numerically what a healthy lake ecosystem looks like. Lakes that have IBI scores below the minimum score will be considered impaired, and corrective action will be necessary under the Clean Water Act. Iowa State University has completed the field work on this project, and the final report is expected in December 2012.

For over ten years, the Department has been collecting data from smaller streams (referred to as "wadeable streams") to determine what a healthy stream looks like. In the spring of 2010, the Department convened an advisory panel of stream experts to look at these data to see if a strong relationship exists between the health of the stream ecosystem and the nutrient levels in the stream. If a strong relationship exists, the data can be used to determine the maximum concentration of nutrients in the stream that still allows for a healthy stream.

Any person may submit written suggestions or comments on the proposed amendment on or before April 30, 2011. Such written material should be submitted to Chuck Corell, Iowa Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319-0034; or sent by fax to (515)281-8895 or by E-mail to chuck.corell@dnr.iowa.gov.

Persons are also invited to present oral or written comments at public hearings which will be held as follows:

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March 23, 2011	10 a.m.	Falcon Civic Center 1305 5th Ave. NE Independence
March 23, 2011	4 p.m.	Washington Public Library State Bank Room 115 West Washington St. Washington
March 24, 2011	10 a.m.	Clear Lake Public Library 200 North Fourth St. Clear Lake
March 25, 2011	1 p.m.	Wallace State Office Building Fifth Floor Conference Rooms 502 East 9th St. Des Moines
March 29, 2011	10 a.m.	Rock Island Depot 102 Chestnut St. Atlantic
March 29, 2011	6 p.m.	Iowa Lakeside Laboratory Waitt Building, 1838 Hwy 86 Milford
March 31, 2011	4 p.m.	Chariton Public Library 803 Braden Ave. Chariton

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

This amendment may have an impact upon small businesses.

This amendment is intended to implement Iowa Code chapter 455B, division III, part 1.

The following amendment is proposed.

Adopt the following **new** subrule 61.3(4):

61.3(4) Lake criteria.

a. So that swimming can be supported, the following criteria are applicable to all lakes listed in paragraph 61.3(4)“*d.*”

(1) Transparency. The transparency of the lake, as measured with a Secchi disk, shall be one meter or more in at least 75 percent of the measurements taken.

(2) Chlorophyll-a. The concentration of chlorophyll-a in 75 percent of the samples analyzed shall not exceed 25 micrograms per liter ($\mu\text{g/l}$).

b. Water sampling used to determine whether a lake meets the transparency and chlorophyll-a criteria in paragraph 61.3(4)“*a.*” must meet the following requirements:

(1) A minimum of nine sample results are required.

(2) At least three of the samples must be taken from the deepest part of the lake.

(3) All samples must be taken during the months of May through September.

(4) At least three sampling events must be conducted in any one summer recreation season.

(5) Samples must be taken in at least three summer seasons in a five-consecutive-year period.

c. Nitrogen and phosphorus concentrations are among several variables affecting lake transparency and chlorophyll-a levels. However, individual lake and watershed characteristics determine the precise amount of these nutrients that can be present and still allow the lake to meet the criteria in paragraph 61.3(4)“*a.*” For this reason, nitrogen and phosphorus reduction targets will be determined on a case-by-case basis as a result of lake-specific monitoring and data analysis. Lake nutrient-response models, such as those used to establish total maximum daily loads for lakes impaired

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for not meeting the Secchi disk depth and chlorophyll-a criteria, or other appropriate scientific methods will be utilized for this purpose.

d. Criteria in paragraph 61.3(4)“a” shall apply to the following lakes, listed by the county in which the lake is located:

- Adair: Mormon Trail Lake, Meadow Lake, Orient Lake
- Adams: Lake Icaria, Binder Lake
- Appanoose: Rathbun Reservoir
- Audubon: Littlefield Lake
- Benton: Hannen Lake, Rodgers Park Lake
- Black Hawk: Mitchell Lake, George Wyth Lake, South Prairie Lake, Meyers Lake, Green Belt Lake
- Boone: Don Williams Lake
- Bremer: Avenue of the Saints Pond
- Buena Vista: Storm Lake (including Little Storm Lake), Sturchler Pit (Newell Pit), Marathon City Park Pond, Gustafson Lake
- Calhoun: North Twin Lake
- Carroll: Swan Lake
- Cass: Lake Anita, Cold Springs Lake
- Cerro Gordo: Bluebill Lake, Clear Lake, Blue Pit
- Chickasaw: Airport Lake, Split Rock Lake
- Clarke: East Lake
- Clay: Scharnberg Pond, Trumbull Lake
- Clinton: Malone Park Pond
- Crawford: Yellow Smoke Park Lake, Newcom Riggleman Natural Resource Area Pond, Nelson Park Lake
- Dallas: Beaver Lake
- Davis: Lake Wapello
- Decatur: Little River Watershed Lake, Slip Bluff Lake, Nine Eagles Lake
- Delaware: Silver Lake
- Des Moines: Big Hollow Lake
- Dickinson: West Okoboji Lake, Big Spirit Lake, Center Lake, Minnewashta Lake, East Okoboji Lake, Silver Lake, Little Spirit Lake, Lower Gar Lake, Upper Gar Lake
- Emmet: Ingham Lake, Tuttle Lake
- Fayette: Volga Lake
- Floyd: Rudd Lake
- Franklin: Beeds Lake
- Fremont: Percival Lake, McPaul ‘B’ Pond
- Greene: Spring Lake
- Guthrie: Springbrook Lake
- Hamilton: Briggs Woods Lake, Little Wall Lake
- Hancock: Eldred Sherwood Lake, Crystal Lake
- Hardin: Upper Pine Lake, Lower Pine Lake
- Harrison: Willow Lake
- Henry: Lake Geode
- Howard: Lake Hendricks
- Ida: Moorhead Park Pond, Crawford Creek Impoundment
- Iowa: Iowa Lake
- Jackson: Lower Sabula Lake
- Jasper: Rock Creek Lake, Mariposa Lake
- Jefferson: Fairfield Municipal Reservoir #1
- Johnson: Lake Macbride, Kent Park Lake
- Jones: Central Park Lake
- Keokuk: Lake Belva Deer

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Kossuth: Lake Smith
Lee: Pollmiller Park Lake, Wilson Lake
Linn: Pleasant Creek Lake
Lucas: Red Haw Lake, Williamson Pond
Lyon: Lake Pahoja
Madison: Badger Creek Lake
Mahaska: Hawthorn Lake (aka Barnes City Lake), Lake Keomah, White Oak Conservation Area
Lake
Marion: Roberts Creek Lake
Marshall: Sand Lake, Green Castle Lake
Mills: Mile Hill Lake
Monona: Oldham Lake, Blue Lake, Lake Miami
Montgomery: Viking Lake
O'Brien: Dog Creek Lake, Mill Creek Lake, Douma Area Pond
Osceola: Willow Creek, Ocheyedon Pit #1, Ashton Park Pond
Page: Pierce Creek Pond
Palo Alto: Lost Island Lake, Five Island Lake, Silver Lake
Plymouth: Hillview Recreational Area Pond
Pocahontas: Meredith Park Pond
Polk: Big Creek Lake, Grays Lake, Easter Lake, Blue Heron Lake (Raccoon River Park)
Pottawattamie: Carter Lake, Arrowhead Pond, Lake Manawa, Arbor Lake
Sac: Arrowhead Lake, Black Hawk Lake
Scott: Lake of the Hills
Shelby: Prairie Rose Lake, Manteno Park Pond
Sioux: Fairview Area Impoundment, Otter Creek Recreational Area Pond, Winterfield Pond (aka
Van Zee Pit), Big Sioux
Story: Hickory Grove Lake, Peterson Pit West
Tama: Otter Creek Lake, Casey Lake (aka Hickory Hills Lake), Union Grove Lake
Taylor: Lake of Three Fires, Windmill Lake, Wilson Park Lake
Union: Three Mile Lake, Twelve Mile Creek Lake, Green Valley Lake, Thayer Lake
Van Buren: Lacey Keosauqua Park Lake, Lake Sugema, Indian Lake
Wapello: Ottumwa Lagoon
Warren: Lake Ahquabi
Washington: Lake Darling
Wayne: Bob White Lake
Webster: Brushy Creek Lake, Badger Lake
Winnebago: Lake Catherine, Rice Lake
Winneshiek: Lake Meyer
Woodbury: Little Sioux Park Lake, Browns Lake
Worth: Silver Lake, Kuennen's Pit Wildlife Area (south), Kuennen's Pit Wildlife Area (north)
Wright: Lake Cornelia

ARC 9399B**HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 88, “Managed Health Care Providers,” Iowa Administrative Code.

The proposed amendments are part of the implementation of the plan developed by the remedial services transition committee to transition remedial services from a fee-for-service program administered by the Iowa Medicaid Enterprise to administration by the Iowa Plan for Behavioral Health, a managed care program under contract to Iowa Medicaid. The work of the remedial services transition committee was directed by 2010 Iowa Acts, House File 2526, section 31. The transition committee filed a final report with the General Assembly on December 31, 2010.

The proposed amendments:

- Rename Medicaid remedial services as “behavioral health intervention.” Behavioral health intervention consists of skill-building services to assist a member who is diagnosed with an Axis I disorder to better manage the member’s behavior and symptoms. The “Diagnostic and Statistical Manual IV-TR” for mental disorders organizes each psychiatric diagnosis into one of two dimensions or axes (with three additional axes for other conditions). Axis I refers to clinical mental disorders, including major mental disorders and learning disorders, but excluding personality disorders and mental retardation.
- Require the Iowa Plan for Behavioral Health to cover behavioral health intervention for members who are enrolled in the Iowa Plan. Behavioral health intervention will be covered under the fee-for-service program only for members who are not enrolled in the Iowa Plan for Behavioral Health when the services are provided. This change will allow consistency of coverage and better integration of services for members who move in and out of Iowa Plan enrollment.
- Require that all behavioral health intervention providers be enrolled in the Iowa Plan for Behavioral Health in order to receive Medicaid fee-for-service payment. This change will provide a consistent basis for provider qualifications and access to Iowa Plan quality improvement and program integrity initiatives.
- Remove community psychiatric supportive treatment and rehabilitation program as covered services. Community psychiatric supportive treatment historically has not been provided. The definition of “rehabilitation program” is virtually identical to the definition of “skill training and development,” which remains a covered service.
- Add family training as a covered behavioral health intervention service for members under the age of 21. Family training teaches family members how to identify and use strategies to reduce problem behaviors and reinforce the appropriate skills to support the child’s functioning in the home and community.
- Require that the recommendation for behavioral health intervention be part of a comprehensive treatment plan which also includes other behavioral health services.
- Provide that all behavioral health intervention services will be subject to telephone authorization by the Iowa Plan for Behavioral Health. Services may be community-based or may be directed to children at risk of or currently in group care placement.
- Provide that all behavioral health intervention services will be reimbursed according to a fee schedule developed by the Iowa Plan for Behavioral Health.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments do not provide for waivers in specified situations because federal regulations for rehabilitation services have specific requirements which must be addressed and because the General Assembly supported moving remedial services to the mental health managed care program. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before March 16, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

The Department will also hold a public hearing for the purpose of receiving comments on the proposed amendments on Wednesday, March 16, 2011, from 10:30 a.m. to 12 noon in the First Floor Southeast Conference Room 1, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa.

Persons with disabilities who require assistive services or devices to observe or participate should contact the Bureau of Policy Coordination at (515)281-8440 before the scheduled date to request that appropriate arrangements be made.

These amendments are intended to implement Iowa Code section 249A.4 and 2010 Iowa Acts, chapter 1192, section 31.

The following amendments are proposed.

ITEM 1. Rescind rule 441—77.12(249A) and adopt the following **new** rule in lieu thereof:

441—77.12(249A) Behavioral health intervention. A provider of behavioral health intervention services is eligible to participate in the medical assistance program when the provider is enrolled in the Iowa Plan for Behavioral Health pursuant to 441—Chapter 88, Division IV.

This rule is intended to implement Iowa Code section 249A.4 and 2010 Iowa Acts, chapter 1192, section 31.

ITEM 2. Amend rule 441—78.12(249A) as follows:

441—78.12(249A) Remedial services Behavioral health intervention. Payment will be made for ~~remedial~~ behavioral health intervention services not otherwise covered under this chapter that are designed to minimize or, if possible, eliminate the symptoms or causes of a an Axis I psychological disorder, subject to the limitations in this rule.

78.12(1) Definitions.

“Axis I disorder” means a diagnosed mental disorder, except for personality disorders and mental retardation, as set forth in the “Diagnostic and Statistical Manual IV-TR,” Fourth Edition.

“Behavioral health intervention” means skill-building services that focus on:

1. Addressing the mental and functional disabilities that negatively affect a member's integration and stability in the community and quality of life;

2. Improving a member's health and well-being related to the member's Axis I disorder by reducing or managing the symptoms or behaviors that prevent the member from functioning at the member's best possible functional level; and

3. Promoting a member's mental health recovery and resilience through increasing the member's ability to manage symptoms.

“Licensed practitioner of the healing arts” or “LPHA,” as used in this rule, means a practitioner such as a physician (MD or DO), an advanced registered nurse practitioner (ARNP), a psychologist (PhD or PsyD), an independent social worker (LISW), a marital and family therapist (LMFT), or a mental health counselor (LMHC) who:

1. Is licensed by the applicable state authority for that profession.

2. Is enrolled in the Iowa Plan for Behavioral Health (Iowa Plan) pursuant to 441—Chapter 88, Division IV; and

HUMAN SERVICES DEPARTMENT[441](cont'd)

3. Is qualified to provide clinical assessment services (Current Procedural Terminology code 90801) under the Iowa Plan pursuant to 441—Chapter 88, Division IV.

~~78.12(1)~~ 78.12(2) Covered services. ~~Medicaid covers the following remedial services:~~

~~a. Community psychiatric supportive treatment, which offers intensive interventions to modify psychological, behavioral, emotional, cognitive, and social factors affecting a member's functioning when less intensive remedial services do not meet the member's needs.~~

~~(1) Interventions must focus on the member's remedial needs to minimize or eliminate psychological barriers to a member's ability to effectively manage symptoms associated with a psychological disorder in an age-appropriate manner.~~

~~(2) Interventions may assist the member in skills such as conflict resolution, problem solving, social skills, interpersonal relationship skills, and communication.~~

~~(3) Community psychiatric supportive treatment is covered only for Medicaid members who are aged 20 or under.~~

~~(4) Community psychiatric supportive treatment is not intended for members in congregate care.~~

~~(5) Community psychiatric supportive treatment is not intended to be provided in a group.~~

~~a. Service setting.~~

(1) Community-based behavioral health intervention is available to a member living in a community-based environment. Services have a primary goal of assisting the member and the member's family to learn age-appropriate skills to manage behavior and regain or retain self-control. Depending on the member's age and diagnosis, specific services offered may include:

1. Behavior intervention,
2. Crisis intervention,
3. Skill training and development, and
4. Family training.

(2) Residential behavioral health intervention is available to members under the age of 18 living in a residential group care setting licensed under 441—Chapter 112. Services have the primary goal of assisting members to prepare to transition to the community through learning age-appropriate skills to manage behavior and regain or retain self-control. Specific services offered include:

1. Behavior intervention, and
2. Crisis intervention.

(3) Behavioral health intervention is not covered for members who are in an acute care or psychiatric hospital, a long-term care facility, or a psychiatric medical institution for children.

b. Crisis intervention. Crisis intervention services shall provide a focused intervention and rapid stabilization of acute symptoms of mental illness or emotional distress. The intervention shall be designed to de-escalate situations in which a risk to self, others, or property exists.

(1) Services shall assist a member to regain self-control and reestablish effective management of behavioral symptoms associated with a psychological disorder in an age-appropriate manner.

(2) Crisis intervention is covered only for Medicaid members who are aged 20 or under and shall be provided as outlined in a written treatment plan.

(3) Crisis intervention services do not include control room or other restraint activities.

c. Behavior intervention. ~~Health or behavior~~ Behavior intervention, ~~used~~ includes services designed to modify the psychological, behavioral, emotional, cognitive, and social factors affecting a member's functioning.

(1) Interventions may address the following skills for effective functioning with family, peers, and community: ~~conflict resolution skills, problem-solving skills, social skills, interpersonal relationship skills, and communication skills.~~ in an age-appropriate manner:

1. Cognitive flexibility skills,
2. Communication skills,
3. Conflict resolution skills,
4. Emotional regulation skills,
5. Executive skills,
6. Interpersonal relationship skills,

HUMAN SERVICES DEPARTMENT[441](cont'd)

7. Problem-solving skills, and

8. Social skills.

~~(2) The purpose of intervention shall be to minimize or eliminate psychological barriers to the member's ability to effectively manage symptoms associated with a psychological disorder in an age-appropriate manner. Behavior intervention shall be provided in a location appropriate for skill identification, teaching and development. Intervention may be provided in an individual, family, or group format as appropriate to meet the member's needs.~~

~~(3) Health or behavior Behavior intervention is covered only for Medicaid members aged 20 or under.~~

~~(4) Covered services include only direct teaching or development of skills and not general recreation, non-skill-based activities, mentoring, or interruption of school.~~

~~d. Family training. Rehabilitation program, which consists of interventions to enhance a member's independent living, social, and communication skills; to minimize or eliminate psychological barriers to a member's ability to effectively manage symptoms associated with a psychological disorder; and to maximize the member's ability to live and participate in the community. Family training is covered only for Medicaid members aged 20 or under.~~

~~(1) Interventions may address the following skills for effective functioning with family, peers, and community: communication skills, conflict resolution skills, problem-solving skills, social skills, interpersonal relationship skills, and employment-related skills. Family training services shall:~~

~~1. Enhance the family's ability to effectively interact with the child and support the child's functioning in the home and community, and~~

~~2. Teach parents to identify and implement strategies to reduce target behaviors and reinforce the appropriate skills.~~

~~(2) Rehabilitation program services are covered only for Medicaid members who are aged 18 or over. Training provided must:~~

~~1. Be for the direct benefit of the member, and~~

~~2. Be based on a curriculum with a training manual.~~

~~e. Skill training and development. Skill training and development services are covered for Medicaid members aged 18 or over.~~

~~(1) Skills Skill training and development, which consists shall consist of interventions to:~~

~~1. enhance Enhance a member's independent living, social, and communication skills; to~~

~~2. minimize Minimize or eliminate psychological barriers to a member's ability to effectively manage symptoms associated with a psychological disorder; and to~~

~~3. maximize Maximize a member's ability to live and participate in the community.~~

~~(2) Interventions may include training in the following skills for effective functioning with family, peers, and community: communication skills, conflict resolution skills, problem-solving skills, social skills, interpersonal relationship skills, and employment-related skills.~~

~~1. Communication skills,~~

~~2. Conflict resolution skills,~~

~~3. Daily living skills,~~

~~4. Employment-related skills,~~

~~5. Interpersonal relationship skills,~~

~~6. Problem-solving skills, and~~

~~7. Social skills.~~

~~(2) Skills training and development services are covered only for Medicaid members aged 18 or over.~~

~~78.12(2) 78.12(3) Excluded services.~~

~~a. Services that are habilitative in nature are not covered as remedial services under behavioral health intervention. For purposes of this subrule, "habilitative services" means services that are designed to assist individuals in acquiring skills that they never had, as well as associated training to acquire self-help, socialization, and adaptive skills necessary to reside successfully in a home or community setting.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. Respite, day care, education, and recreation services are not covered under behavioral health intervention.

~~78.12(3)~~ **78.12(4)** *Coverage requirements.* Medicaid covers ~~remedial services~~ behavioral health intervention only when the following conditions are met:

a. A licensed practitioner of the healing arts acting within the practitioner's scope of practice under state law has diagnosed the member with a psychological disorder. ~~For example, licensed practitioners of the healing arts include physicians (M.D. or D.O.), advanced registered nurse practitioners (ARNP), psychologists (Ph.D. or Psy.D.), independent social workers (LISW), marital and family therapists (LMFT), and mental health counselors (LMHC). For purposes of this rule, the licensed practitioner of the healing arts must be:~~

~~(1) Enrolled in the Iowa Plan pursuant to 441—Chapter 88, Division IV; and~~

~~(2) Qualified to provide clinical assessment services under the Iowa Plan pursuant to 441—Chapter 88, Division IV (Current Procedural Terminology code 90801).~~

b. The licensed practitioner of the healing arts has recommended the remedial services behavioral health intervention as part of a plan of treatment designed to treat the member's psychological disorder. The plan of treatment shall be comprehensive in nature and shall detail all behavioral health services that the member may require, not only services included under behavioral health intervention.

(1) The member's need for services must meet specific individual goals that are focused to address:

1. Risk of harm to self or others,

2. Behavioral support in the community,

3. Specific skills impaired due to the member's mental illness, and

4. Needs of children at risk of out-of-home placement due to mental health needs or the transition back to the community or home following an out-of-home placement.

(2) Diagnosis and treatment plan development provided in connection with this rule for members enrolled in the Iowa Plan are covered services under the Iowa Plan pursuant to 441—Chapter 88, Division IV.

c. For a member under the age of 21, the licensed practitioner of the healing arts:

(1) Has, in cooperation with the managed care contractor, selected a standardized assessment instrument appropriate for baseline measurement of the member's current skill level in managing mental health needs;

(2) Has completed an initial formal assessment of the member using the instrument selected; and

(3) Completes a formal assessment using the same instrument every six months thereafter if continued services are ordered.

d. ~~The remedial services behavioral health intervention provider has prepared a written remedial services implementation plan that has been approved by:~~ meets the requirements of subrule 78.12(5).

~~(1) The member or the member's parent or guardian; and~~

~~(2) The medical services unit of the Iowa Medicaid enterprise.~~

~~78.12(4)~~ **78.12(5)** *Approval of plan.* ~~The remedial services behavioral health intervention provider shall submit the treatment plan, the results of the formal assessment, and the remedial services implementation plan to the Iowa Medicaid enterprise (IME) medical services unit for approval before providing~~ contact the Iowa Plan provider for authorization of the services.

a. *Initial plan.* ~~The IME medical services unit shall approve the provider's initial remedial services implementation plan if~~ must meet all of the following criteria:

(1) The plan conforms to the medical necessity requirements in subrule ~~78.12(3)~~ 78.12(6);

(2) The plan is consistent with the written diagnosis and treatment recommendations made by the licensed practitioner of the healing arts;

(3) The plan is sufficient in amount, duration, and scope to reasonably achieve its purpose;

(4) ~~The provider can demonstrate that the provider possesses the skills and resources necessary to implement the plan, as required in~~ meets the requirements of rule 441—77.12(249A); and

(5) ~~The plan does not exceed six months' duration; and~~

~~(6) The plan requires that written progress notes be submitted no less often than every six weeks to the IME medical services unit.~~

HUMAN SERVICES DEPARTMENT[441](cont'd)

b. *Subsequent plans.* The ~~IME medical services unit~~ Iowa Plan contractor may approve a subsequent remedial services implementation plan according to the conditions in paragraph “a” if the services are recommended by a licensed practitioner of the healing arts who has:

- (1) Reexamined the member;
- (2) Reviewed the original diagnosis and treatment plan; and
- (3) Evaluated the member’s progress, including a formal assessment as required by ~~78.12(3)“e”~~(3); and ~~78.12(3)“c”~~(4).
- (4) ~~Submitted the results of the formal assessment with the recommendation for continued services.~~

e. *Quality review.* The ~~IME medical services unit~~ will establish a quality review process. Reviews will evaluate:

- (1) ~~The time elapsed from referral to remedial plan development;~~
- (2) ~~The continuity of treatment;~~
- (3) ~~The affiliation of the licensed practitioner of the healing arts with the remedial services provider;~~
- (4) ~~Gaps in service;~~
- (5) ~~The results achieved; and~~
- (6) ~~Member satisfaction.~~

~~78.12(5)~~ **78.12(6)** *Medical necessity.* Nothing in this rule shall be deemed to exempt coverage of remedial behavioral health intervention services from the requirement that services be medically necessary. “Medically necessary” means that the service is:

- a. Consistent with the diagnosis and treatment of the member’s condition and specific to a daily impairment caused by an Axis I disorder;
- b. Required to meet the medical needs of the member and is needed for reasons other than the convenience of the member or the member’s caregiver;
- c. The least costly type of service that can reasonably meet the medical needs of the member; and
- d. In accordance with the standards of good evidence-based medical practice. The standards of good practice for each field of medical and remedial care covered by the Iowa Medicaid program are those standards of good practice identified by:

- (1) Knowledgeable Iowa clinicians practicing or teaching in the field; and
- (2) The professional literature regarding best evidence-based practices in the field.

This rule is intended to implement Iowa Code section 249A.4 and 2010 Iowa Acts, chapter 1192, section 31.

ITEM 3. Rescind the provider category “Remedial services” in subrule **79.1(2)**.

ITEM 4. Adopt the following **new** provider category in subrule **79.1(2)**:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
Behavioral health intervention	Fee schedule as determined by the Iowa Plan for Behavioral Health	Fee schedule in effect 7/1/11.

ITEM 5. Rescind and reserve subrule **79.1(23)**.

ITEM 6. Amend subparagraph **79.3(2)“d”**(**25**) as follows:

(25) Remedial Behavioral health intervention services and ~~rehabilitation services for adults with a chronic mental illness:~~

- 1. Order for services.
- 2. Comprehensive treatment or service plan (initial and subsequent).
- 3. Service notes or narratives.

ITEM 7. Adopt the following **new** subparagraph **88.65(3)“a”**(**16**):

(16) Behavioral health intervention as set forth in rule 441—78.12(249A).

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 8. Amend subrule 88.65(6) as follows:

88.65(6) Excluded services. Unless the service is specifically included in the contract, the contractor shall not be required to provide long-term care (e.g., residential care facilities, nursing facilities, state resource centers, or intermediate care facilities for persons with mental retardation) or ~~remedial~~ services.

ARC 9398B

INSURANCE DIVISION[191]

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 507B.12 and 513C.12 and chapter 514D, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 15, “Unfair Trade Practices,” and Chapter 36, “Individual Accident and Health—Minimum Standards,” Iowa Administrative Code.

The rules in Chapter 15 set forth prohibited unfair trade practices, including provisions prohibiting unfair discrimination against individuals of the same class. The rules in Chapter 36 provide reasonable standardization and simplification of terms and coverages of individual accident and sickness insurance policies. The proposed amendments to the rules are intended to implement the Patient Protection and Affordable Care Act (Pub.L. 111-148, 124 Stat. 119, H.R. 3590, enacted March 23, 2010) by setting forth the requirements and procedures to be followed by insurance companies for individual health insurance coverage for children under the age of 19. The Division intends that persons and entities shall comply with the rules beginning May 25, 2011, for policies offered for sale on or after May 25, 2011.

Any interested person may make written suggestions or comments on these proposed amendments on or before March 23, 2011. Such written materials should be directed to Angela Burke Boston, Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319; fax (515)281-3059.

Also, there will be a public hearing on March 23, 2011, at 10 a.m. at the offices of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

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 Division and advise of specific needs.

These amendments are intended to implement Iowa Code chapters 507B, 513C, and 514D and the Patient Protection and Affordable Care Act (Pub.L. 111-148, 124 Stat. 119, H.R. 3590, enacted March 23, 2010).

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 15.11(6):

15.11(6) Discrimination relating to children under the age of 19. It is an unfair trade practice to:

- a. Encourage individuals or groups to refrain from filing an application with an insurer for coverage for a child under the age of 19 because of the child’s health status, claims experience, industry, occupation, or geographic location;
- b. Encourage or direct children under the age of 19 to seek coverage from another insurer because of the child’s health status, claims experience, industry, occupation, or geographic location; and
- c. Encourage an employer to exclude an employee from coverage.

INSURANCE DIVISION[191](cont'd)

ITEM 2. Adopt the following **new** rule 191—36.13(513C,514D):

191—36.13(513C,514D) Individual health insurance coverage for children under the age of 19.

36.13(1) Purpose, applicability and effective date.

a. The purpose of this rule is to set forth the requirements and procedures to be followed for individual health insurance coverage for children under the age of 19.

b. This rule shall apply to all “carriers” as defined in Iowa Code subsection 513C.3(5). For purposes of this rule, “carrier” means the same as it is defined in Iowa Code subsection 513C.3(5).

c. For purposes of this rule, a “child-only” policy means a health benefit plan delivered or issued for delivery to an individual who is the primary subscriber on the policy and who is under the age of 19. A “child-only” policy does not include a health benefit plan that is delivered or issued for delivery to a primary subscriber who is 19 years of age and older but that insures persons under the age of 19.

d. This rule shall become effective [insert effective date] for policies sold or issued on or after that date.

36.13(2) Coverage requirement for children under the age of 19, open enrollment period and notice.

a. Carriers doing business in the state of Iowa shall offer coverage to primary subscribers under the age of 19 during the open enrollment period as established in this rule.

b. The open enrollment period for child-only applicants shall commence on June 1, 2011, and end on July 15, 2011. Carriers shall provide subsequent open enrollment periods for child-only applicants for the periods of June 1 through July 15 in the years 2012 and 2013.

c. A carrier shall advertise the open enrollment period for children under the age of 19, including the availability of child-only coverage, on the carrier’s Web site and through any other media as determined by the carrier. The advertising shall be conspicuous and provided in a manner reasonably calculated to give potential applicants timely and informative notice regarding the annual open enrollment period.

d. For child-only applications received during the open enrollment period, individual health insurance coverage shall be offered on a guaranteed-issue basis to individuals up to the age of 19. The health benefit plans available to children under the age of 19 shall be in compliance with federal and state law and shall be filed with the Iowa insurance division in accordance with Iowa law.

e. Carriers shall not offer child-only policies outside the open enrollment periods provided in this subrule. However, a carrier shall permit a child under the age of 19 to apply and enroll for coverage during a special enrollment period under the terms of the health benefit plan if the child has experienced a qualifying event. A health benefit plan issued during a special enrollment period to a child under the age of 19 after a qualifying event shall be issued on a guaranteed basis and shall not impose any preexisting conditions. For purposes of this paragraph, a “qualifying event” shall mean one or more of the following:

(1) The child under the age of 19:

1. Lost creditable coverage as defined in Iowa Code section 514A.3B(3) as a result of termination of the child’s employment or eligibility, the involuntary termination of the creditable coverage, death of the child’s spouse or parent, or the child’s divorce; and

2. Made the request for special enrollment within 30 days after termination of the creditable coverage.

(2) An event of marriage, birth, adoption or placement for adoption occurs and the request for special enrollment is made within 30 days after the occurrence of the event.

(3) The child was covered under a mandated continuation of a group health plan or group health insurance coverage plan until the coverage under that plan was exhausted.

(4) A court has ordered that coverage be provided for a spouse or minor or dependent child under a covered employee’s health insurance coverage and the request for enrollment is made within 30 days after issuance of the court order.

(5) The child changes status and becomes an eligible employee and requests enrollment within 63 days after the date of the change in status.

INSURANCE DIVISION[191](cont'd)

f. An individual applying for coverage during the open enrollment period or during a special enrollment period shall not be eligible for guaranteed-issue coverage if the individual has other coverage or if other coverage is available at the time of the effective date of coverage.

g. A carrier that issues a policy pursuant to this rule shall comply with all other applicable statutes and administrative rules, both state and federal, regarding individual health benefit policies.

h. Child-only policies may be appropriately rated based on the health status of the child-only applicant.

ITEM 3. Amend **191—Chapter 36**, implementation sentence for Division I, as follows:
These rules are intended to implement Iowa Code chapters 507B, 510, 513C and 514D.

ARC 9389B

REAL ESTATE COMMISSION[193E]

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 543B.9 and 543B.18, the Real Estate Commission hereby gives Notice of Intended Action to amend Chapter 11, “Brokerage Agreements and Listings,” Iowa Administrative Code.

The proposed amendment to rule 193E—11.2(543B) requires that a broker seeking to enforce a protective clause furnish to an owner by both regular mail and certified mail, return receipt requested, a copy of the names of those persons for whom protection is being sought.

A public hearing will be held on March 15, 2011, at 1 p.m. in the Professional Licensing Conference Room, Second Floor, 1920 S.E. Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendment either orally or in writing. At the hearing, persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

Consideration will be given to all written suggestions or comments received by 4:30 p.m. on March 15, 2011. Comments should be addressed to David Batts, Executive Officer, Iowa Real Estate Commission, 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to David.Batts@Iowa.gov.

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

The following amendment is proposed.

Amend rule 193E—11.2(543B) as follows:

193E—11.2(543B) Enforcing a protective clause. To enforce a protective clause beyond the expiration of an exclusive listing contract, there must be a provision for the protective clause in the listing contract which establishes a definite protection period,~~and the~~ The broker must furnish to the owner in writing, by both regular mail and certified mail, return receipt requested, and prior to the expiration of the listing, the names and addresses of persons to whom the property was presented during the active term of the listing and for whom protection is sought.

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 James M. Schipper, 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 February is 5.25%.

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 February 9, 2011, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .05%
32-89 days	Minimum .05%
90-179 days	Minimum .05%
180-364 days	Minimum .05%
One year to 397 days	Minimum .30%
More than 397 days	Minimum .70%

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 9394B**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, 476.1A, 476.1B, 476.1C, 476.2, and 476A.12 and chapters 478 and 479, the Utilities Board (Board) gives notice that on February 3, 2011, the Board issued an order in Docket No. RMU-2011-0001, In re: Electric and Gas Technical Standards—Updates, “Order Commencing Rule Making.” The Board is noticing for public comment proposed amendments to 199 IAC 10.12(1), 10.17, 19.2(5)“g,” 19.5(2), 20.3(9), 20.5(2), 20.18(5)“b”(2), 25.1(3), and 25.2(4).

The proposed amendments are primarily updates of technical standards, which are incorporated by reference in current rules. For example, federal pipeline safety standards have been updated to include new federal reporting forms, control center standards, and distribution integrity management regulations. The Board’s federal pipeline safety grant is dependent, in part, on timely adoption of these changes.

Corrective changes are also proposed. For example, the proposed amendment to 199 IAC 20.3(9) reflects the Board’s adoption and implementation of electronic filing. Also, a more substantive change is proposed in new subrule 25.1(3). The definition of utility is expanded in the proposed subrule to include all electric facility owners, which would include transmission-only operators and wind farms that are not utilities under Iowa Code chapter 476. The definitions currently used in 199 IAC 25 implicitly include such nontraditional electric facility owners; the proposed new subrule makes the definition explicit.

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 March 15, 2011. The statement should be filed electronically through the Board’s Electronic Filing System (EFS). Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments shall be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

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 of position may determine that an oral presentation should be scheduled.

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 is applicable to these amendments.

These amendments are intended to implement Iowa Code sections 476.1, 476.1A, 476.1B, 476.1C, 476.2, and 476A.12 and chapters 478 and 479.

The following amendments are proposed.

ITEM 1. Amend subrule 10.12(1) as follows:

10.12(1) All pipelines, underground storage facilities, and equipment used in connection therewith shall be designed, constructed, operated, and maintained in accordance with the following standards:

a. 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

b. 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

UTILITIES DIVISION[199](cont'd)

c. 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

d. ASME B31.8 - 2007, "Gas Transmission and Distribution Piping Systems."

e. ~~199 IAC 9 199—Chapter 9~~, "Restoration of Agricultural Lands During and After Pipeline Construction."

f. At railroad crossings, ~~199 IAC 42.7(476)~~ 199—42.7(476), "Engineering standards for pipelines."

Conflicts between the standards established in paragraphs 10.12(1)"a" through "f" or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 2. Amend rule 199—10.17(479) as follows:

199—10.17(479) Accidents and incidents. Any pipeline incident or accident which is reportable to the U.S. Department of Transportation under 49 CFR Part 191 as amended through ~~August 19, 2009~~ [insert the effective date of this amendment], shall also be reported to the board, except that the minimum economic threshold of damage required for reporting to the board is \$15,000. Duplicate copies of any written accident reports and safety-related condition reports submitted to the U.S. Department of Transportation shall be provided to the board.

ITEM 3. Amend paragraph **19.2(5)"g"** as follows:

g. *Reports to federal agencies.* Copies of reports submitted pursuant to 49 CFR Part 191 as amended through ~~August 19, 2009~~ [insert the effective date of this amendment], "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," shall be filed with the board. Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 4. Amend subrule 19.5(2) as follows:

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, "Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports," as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

(2) 49 CFR Part 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards," as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

(3) 49 CFR Part 193, "Liquefied Natural Gas Facilities: Federal Safety Standards," as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

(4) 49 CFR Part 199, "Drug and Alcohol Testing," as amended through ~~August 19, 2009~~ [insert the effective date of this amendment].

(5) ASME B31.8 - 2007, "Gas Transmission and Distribution Piping Systems."

(6) NFPA 59-2008, "Utility LP-Gas Plant Code."

(7) At railroad crossings, ~~199 IAC 42.7(476)~~ 199—42.7(476), "Engineering standards for pipelines."

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2009, "National Fuel Gas Code."

(2) NFPA 501A-2009, "Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities."

ITEM 5. Amend subrule 20.3(9) as follows:

20.3(9) Petition for modification of service area and answers. An exclusive service area is subject to modification through a contested case proceeding which may be commenced by filing a petition for modification of service area with the board. The board may commence a service area modification proceeding on its own motion.

UTILITIES DIVISION[199](cont'd)

Any electric utility or municipal corporation may file a petition for modification of service area which shall contain a legal description of the service area desired, a designation of the utilities involved in each boundary section, and a justification for the proposed service area modification. The justification shall include a detailed statement of why the proposed modification is in the public interest. A map showing the affected areas which complies with ~~subrule paragraph~~ 20.3(11) "a" shall be attached to the petition as an exhibit. ~~The petition shall be delivered by the United States Postal Service or personal service and shall be considered as filed with the agency on the date of the postmark or the date of personal service.~~

~~Copies of the petition shall be served on all utilities involved and the consumer advocate. Those utilities and the consumer advocate shall be parties of record to the proceeding. Filing of the petition with the board, and service to other parties, shall be in accordance with 199—Chapter 14.~~

All parties shall file an answer which complies with 199—subrule 7.5(1).

ITEM 6. Amend subrule 20.5(2) as follows:

20.5(2) Standards incorporated by reference. The utility shall use the applicable provisions in the publications listed below as standards of accepted good practice unless otherwise ordered by the board.

- a. Iowa Electrical Safety Code, as defined in ~~199 IAC Chapter 25~~ 199—Chapter 25.
- b. National Electrical Code, ANSI/NFPA 70-2008.
- c. American National Standard Requirements for Instrument Transformers, ANSI/IEEE C57.13.1-2006; and C57.13.3-~~2006~~ 2005.
- d. American National Standard for Electric Power Systems and Equipment Voltage Ratings (60 Hertz), ANSI C84.1-2006.
- e. Grounding of Industrial and Commercial Power Systems, IEEE 142-2007.
- f. IEEE Standard 1159-~~1995~~ 2009, IEEE Recommended Practice for Monitoring Electric Power Quality or any successor standard.
- g. IEEE Standard 519-1992, IEEE Recommended Practices and Requirements for Harmonic Control in Electrical Power Systems or its successor standard.
- h. At railroad crossings, ~~199 IAC 42.6(476)~~ 199—42.6(476), "Engineering standards for electric and communications lines."

ITEM 7. Amend subparagraph **20.18(5) "b" (2)** as follows:

(2) When recording interruptions, each electric utility, other than those providing only wholesale electric service, shall use detailed standard codes for interruption analysis recommended by the United States Department of Agriculture, Rural Utilities Service (RUS) Bulletin ~~461-1~~ 1730A-119, Tables 1 and 2, including the major cause categories of equipment or installation, age or deterioration, weather, birds or animals, member (or public), and unknown. The utility shall also include the subcategories recommended by RUS for each of these major cause categories.

ITEM 8. Adopt the following **new** subrule 25.1(3):

25.1(3) Definition of utility. For the purpose of this chapter, a utility is any owner or operator of electric or communications facilities subject to the safety jurisdiction of the board.

ITEM 9. Amend paragraph **25.2(4) "a"** as follows:

a. *Joint-use construction.* Where it is mutually agreeable between ~~the electric supply company and the~~ an electric utility and a communication or cable television company, communication circuits or cables may be buried in the same trench or attached to the same supporting structure, provided this joint use is permitted by, and is constructed in compliance with, the Iowa electrical safety code.

ARC 9390B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code section 159.5, the Department of Agriculture and Land Stewardship hereby amends Chapter 6, "Public Records and Fair Information Practices," and Chapter 7, "Child Support Collection Procedures," Iowa Administrative Code.

The amendments authorize licensing sanctions for the collection of a debt placed with the centralized collection unit of the Department of Revenue. These sanctions are required under Iowa Code chapter 272D. Citations to the Iowa Rules of Civil Procedure are also updated.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 17, 2010, as **ARC 9219B**. No comments were received from the public.

An amendment was added that allows confidential licensing information to be shared with the Department of Revenue for debt collection authorized under Iowa Code chapter 272D.

These amendments are intended to implement Iowa Code chapter 272D.

These amendments will become effective March 30, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 21—6.17(159,252J) as follows:

21—6.17(159,252J,272D) Release of confidential licensing information for child support recovery collection purposes. Notwithstanding any statutory confidentiality provision, the department may share information with the child support recovery unit or with the centralized collection unit of the department of revenue through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code ~~Supplement~~ chapter 252J, ~~or~~ 598 or 272D.

ITEM 2. Adopt the following new implementation sentence in **21—Chapter 6**:

These rules are intended to implement Iowa Code chapters 17A, 22, 159, 252J and 272D.

ITEM 3. Amend **21—Chapter 7**, title, as follows:

~~CHILD SUPPORT COLLECTION PROCEDURES~~

ITEM 4. Amend rule 21—7.1(159,252J) as follows:

21—7.1(159,252J,272D) Licensing actions. In addition to other reasons specified by statute or rule, the department may refuse to issue a license or permit, or may revoke, suspend, or not renew any license or permit for which it has jurisdiction if the department is in receipt of a certificate of noncompliance from the child support recovery unit; pursuant to the procedures set forth in Iowa Code ~~Supplement~~ chapter 252J or from the centralized collection unit of the department of revenue pursuant to the procedures set forth in Iowa Code chapter 272D.

An applicant, licensee, or permit holder whose application is denied or whose license or permit is denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit or by the centralized collection unit of the department of revenue shall be subject to the provisions of rule 21—7.1(159,252J,272D). ~~and~~ The procedures specified in 21—Chapter 2 for contesting departmental actions shall not apply.

ITEM 5. Amend rule 21—7.2(159,252J) as follows:

21—7.2(159,252J,272D) Child support collection Collection procedures. The following procedures shall apply to actions taken by the department on a certificate of noncompliance pursuant to Iowa Code ~~Supplement~~ chapter 252J or 272D.

7.2(1) The notice required by Iowa Code ~~Supplement~~ section 252J.8 or 272D.8 shall be served upon the applicant, licensee, or permit holder by restricted certified mail, return receipt requested, or personal service in accordance with ~~Rules~~ Iowa Rule of Civil Procedure ~~56.1~~ 1.305. Alternatively, the applicant, licensee, or permit holder may accept service personally or through authorized counsel.

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

7.2(2) The effective date of revocation or suspension of a license or permit or the denial of the issuance or renewal of a license or permit, as specified in the notice required by Iowa Code Supplement section 252J.8 or 272D.8, shall be 60 days following service of the notice upon the licensee, permit holder, or applicant.

7.2(3) Applicants, licensees, and permit holders shall keep the department informed of all court actions. ~~and Applicants, licensees and permit holders shall also keep the department informed of all child support recovery unit actions taken under or in connection with Iowa Code Supplement chapter 252J or of all centralized collection unit actions taken under or in connection with Iowa Code chapter 272D.~~ Copies shall provide be provided to the department copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code Supplement section 252J.9 or 272D.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit or withdrawals of certificates of noncompliance by the centralized collection unit.

7.2(4) All departmental fees for applications, license renewals or reinstatements must be paid by the applicant, licensee, or permit holder before a license will be issued, renewed or reinstated after the department has denied the issuance or renewal of a license or has suspended or revoked a license or permit pursuant to Iowa Code Supplement chapter 252J or 272D.

7.2(5) If an applicant, licensee, or permit holder timely files a district court action following service of a department notice pursuant to Iowa Code Supplement sections 252J.8 and 252J.9 or 272D.8 and 272D.9, the department shall continue with the intended action described in the notice upon receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license or permit, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

ITEM 6. Amend **21—Chapter 7**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement ~~chapter~~ chapters 252J and 272D.

[Filed 2/3/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9388B

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 203.2, 203C.5, and 203D.4, the Department of Agriculture and Land Stewardship hereby amends Chapter 90, "State Licensed Warehouses and Warehouse Operators," Chapter 91, "Licensed Grain Dealers," Chapter 92, "Participation in Grain Indemnity Fund," Chapter 93, "Grain Indemnity Fund Board—Organization and Operations," and Chapter 94, "Claims Against the Grain Depositors and Sellers Indemnity Fund," Iowa Administrative Code.

The amendments conform the rules on grain transactions involving grain dealers and warehouse operators to reflect changes made by 2010 Iowa Acts, Senate File 2299, by replacing the annual fee paid by grain dealers and warehouse operators with a participation fee. The annual warehouse participation fee changed generally from \$2.75 per 5,000 bushels of capacity to fourteen thousandths of a cent per bushel of licensed storage capacity with a limit of \$500. The annual grain dealer participation fee changed generally from \$500 to fourteen thousandths of a cent per bushel of grain purchased.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 20, 2010, as **ARC 9165B**. No comments were received from the public.

These amendments have been changed since the Notice of Intended Action. References to 2010 Iowa Acts, Senate File 2299, have been updated to the corresponding 2011 Iowa Code references throughout, and parenthetical implementation statutes have been updated in rules 21—90.4(203C) and

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

21—91.3(203) to add “203D.” In Item 18, the second sentence of subrule 90.28(1) has been modified by adding “each” as follows:

“A polyvinyl bag storage space license shall expire each May 1 unless the licensee requests and obtains an extension in accordance with subrule 90.28(2).”

In Item 19, rule 21—90.31(203C) has been modified to replace the second occurrence of the word “licensee” with “warehouse operator.” In Item 27, the third sentence of paragraph 91.11(7)“b” has been modified by adding the word “a” before “credit-sale contract.” In Item 44, the catchwords, first sentence and next-to-last sentence of rule 21—93.8(203D) have been modified to replace “annual grain dealer and warehouse operator fees” with “participation fees.”

Finally, rule catchwords have been corrected to reflect the content of the rule in Items 23, 36, and 37.

These amendments are intended to implement 2010 Iowa Acts, Senate File 2299.

These amendments will become effective March 30, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions in rule **21—90.2(203C)**:

“*Generally accepted accounting principles*” means accounting principles generally accepted in the United States of America, in accordance with the U.S. Financial Accounting Standards Board, or international financial reporting standards, in accordance with the International Accounting Standards Board.

“*Indemnity fund*” means the Iowa grain depositors and sellers indemnity fund created in Iowa Code chapter 203D.

ITEM 2. Amend rule 21—90.4(203C) as follows:

21—90.4(203C,203D) Application for a warehouse operator license. Application to operate a licensed warehouse (Iowa Code chapter 203C) shall be made to the bureau on forms prescribed for that purpose by the bureau. Forms are available from the bureau upon request. All information required by Iowa Code section 203C.7 shall be furnished. The bureau may require the applicant to file updated information if the information on the application is no longer current. The application, insurance certificate, financial statement, tariff, license fee, indemnity fund fee and background information on a person applying for the license and on the managers shall be on file before a license is issued. The bureau chief may require an inspection of the proposed facilities prior to the issuance of a warehouse operator license.

This rule is intended to implement Iowa Code sections 203C.6, ~~and~~ 203C.7, 203C.12, 203C.15, 203C.28, 203C.33, 203D.3 and 203D.3A.

ITEM 3. Amend subrule 90.5(2) as follows:

90.5(2) Surrender of license. The license shall be surrendered to the bureau immediately upon ~~termination~~, cancellation, suspension, or revocation of such license.

ITEM 4. Amend rule 21—90.7(203C) as follows:

21—90.7(203C) Renewal, ~~termination~~ expiration and reinstatement of license—payment of license fee.

90.7(1) Renewals. The bureau shall send to each licensed warehouse operator written notice that the application, ~~and~~ the license fee and the indemnity fund fee for annual renewal of the warehouse operator license shall be received in accordance with Iowa Code section 203C.37. If the bureau does not receive the application and fee fees by the due date, the license shall ~~be terminated~~ expire. A license that has ~~been terminated~~ expired may be reinstated within 30 days of the date of ~~termination~~ expiration conditioned on the applicant’s meeting all statutory requirements and by the bureau’s receipt of the following within 30 days of the ~~termination~~ expiration:

- a. Completed application;
- b. License ~~fee~~; and indemnity fund fees; and
- c. The reinstatement fee prescribed in Iowa Code section 203C.33.

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90.7(2) No change.

This rule is intended to implement Iowa Code sections 203C.33 and 203C.37.

ITEM 5. Amend subrule 90.8(2), introductory paragraph, as follows:

90.8(2) *Financial statement requirements.* Financial statements filed pursuant to subrules 90.8(1), 90.8(3), 90.8(4) and 90.8(11) shall be prepared in accordance with generally accepted accounting principles ~~generally accepted in the United States~~ and shall comply with either of the following:

ITEM 6. Amend paragraph **90.8(9)“a”** as follows:

a. Corporations, limited liability companies and partnerships. When the bureau determines the net worth for corporations, limited liability companies and partnerships, related party assets that require financial disclosure per financial accounting standards shall be disallowed. These assets shall be excluded unless the licensee can show the ~~department~~ bureau sufficient documentation to ~~explain why these assets should be allowed~~ assure the bureau that the assets are collectible.

ITEM 7. Amend paragraph **90.11(1)“b”** as follows:

b. Change in name or business address of a warehouse or warehouse operator.

ITEM 8. Amend subrules 90.13(4) and 90.13(5) as follows:

90.13(4) *Surrender of warehouse receipts on cancellation, ~~termination~~ expiration, suspension or revocation of license.* When a warehouse operator license has expired or is canceled, ~~terminated~~, suspended or revoked, all unused warehouse receipts under such license shall be surrendered to the bureau.

The bureau shall notify the warehouse operator that all outstanding warehouse receipts shall be returned to the bureau's office no later than 120 days from the date of cancellation, ~~termination~~ expiration, or revocation of the license.

90.13(5) *Purchase or return of grain, replacement receipt issued, or cancellation of outstanding receipts, upon cancellation, ~~termination~~ expiration, or revocation of warehouse operator license.* When a warehouse operator license has expired or is canceled, ~~terminated~~, or revoked, all stored grain shall be either purchased and payment made, or returned within 30 days to the holders of warehouse receipts or unpriced scale tickets, except when the warehouse is continuing operation under new ownership or when storage obligations are assumed by another licensee. Upon completion of delivery to the receipt holder or the reissuance of the receipt under a new license, the warehouse operator shall immediately mark “canceled,” sign or initial and date such receipt on the face of the original copy, and forward such receipt to the bureau's office to be stamped with the department's cancellation stamp. When the storage obligations are assumed by a new licensee from a warehouse whose license is expired or has been canceled, ~~terminated~~, or revoked, replacement warehouse receipts shall be issued.

ITEM 9. Amend rule 21—90.14(203C), introductory paragraph, as follows:

21—90.14(203C) Lost or destroyed receipt. If a warehouse receipt is lost or destroyed, one of three methods shall be used in canceling the receipt. The following procedures shall be adhered to:

ITEM 10. Amend subrule 90.14(1) as follows:

90.14(1) *Depositor's lost warehouse receipt release.* If the depositor or warehouse receipt holder has lost the receipt and is either selling all of the grain to the warehouse operator or removing all of the grain from storage, a Lost Warehouse Receipt Release shall be used. The release shall be completed in duplicate and signed by the receipt holder and shall be notarized. Both copies shall be retained in the warehouse records in lieu of the original copy of the receipt, which shall be given to the bureau at the time of an examination. One copy of the release shall be filed with the bureau at the time of an examination.

ITEM 11. Amend subrule 90.15(1) as follows:

90.15(1) *Warehouse receipt forms.* Warehouse receipt forms shall be 8.25 inches wide by 7 inches long or 8.5 inches wide by 11 inches long and shall be printed in not less than triplicate. The original receipt shall be white, and the weight of the paper shall not be less than 20-pound base; the warehouse operator's copy shall be yellow and the weight of the paper shall not be less than 16-pound base; and the owner's copy shall be green and the weight of the paper shall not be less than 16-pound base. Receipts

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issued for bulk grain and receipts issued for agricultural products other than bulk grain shall be in a form prescribed by the department. The bureau shall have control over the printing of warehouse receipts.

ITEM 12. Amend paragraph **90.15(3)“e”** as follows:

e. Provisions to cease issuing electronic warehouse receipts. Upon notice by the department that a warehouse operator license issued under Iowa Code chapter 203C has expired or has been terminated, canceled, suspended or revoked, a provider shall prohibit the warehouse operator from issuing any electronic warehouse receipts until further notice from the department.

ITEM 13. Amend subrule 90.16(1) as follows:

90.16(1) Application of tariff. The tariff rates applicable to stored products shall be those as contained in the tariff on file with the bureau at the time the product is received for storage. The tariff rates shall be applicable on an annual basis from date of deposit. If a tariff is amended, the charges shall be applied in accordance with subrule 90.16(3). Tariff charges shall cease upon cancellation, ~~termination~~ expiration, or revocation of a warehouse operator license. Tariff charges shall continue in accordance with the rates as filed by the successor warehouse operator. In the determination of the applicable rates to be applied under the successor warehouse operator's tariff, the date of deposit under the new tariff shall be the actual date of deposit. No charges shall apply to grain held for less than 30 days and for which no warehouse receipt has been issued unless the warehouse operator has a posted policy which provides for a shorter time period.

ITEM 14. Amend subrule 90.17(7) as follows:

90.17(7) Retention of records. All records shall be kept for a period of not less than six years. Such records shall be kept for the stated time period even if a license has expired or has been canceled, ~~terminated~~ or revoked.

ITEM 15. Amend rule 21—90.20(203C) as follows:

21—90.20(203C) Monthly grain statements. A grain statement shall be prepared at the close of business at the end of each calendar month and filed with the bureau by the tenth of the following month. This grain statement shall be on a form or in a format prescribed by the bureau, ~~which.~~ The bureau shall be furnished furnish forms to the warehouse operator upon request. A grain statement shall be filed for each calendar month regardless of whether or not the warehouse operator has products in storage.

This rule is intended to implement Iowa Code section 203C.2.

ITEM 16. Amend rule 21—90.23(203C), introductory paragraph, as follows:

21—90.23(203C) Storing of products. Bulk grain in storage shall be stored in such a manner that the amount of grain in the storage facility can be readily determined. ~~The warehouse operator may be required to level the grain before completion of the examination if the amount of bulk grain in a storage facility cannot be readily measured by the examiner.~~ A product other than bulk grain shall be stored in such a manner that it can be readily inspected and the amount and kind thereof determined. The maintenance, conditioning, care, or surveillance shall be given to stored products as is required to maintain the quality, grade, and safe storage of the products. Nothing shall be placed or stored in a licensed facility that will in any way contaminate the stored products or cause any degrading of grade or value. Storage facilities shall not be overfilled. There shall be sufficient overhead airspace to provide adequate ventilation and to allow the examiner to readily determine the quality and quantity of the grain. The bureau chief may require the installation of overhead ventilation fans in facilities when in the bureau chief's judgment such fans are needed to preserve the quality of stored products. The bureau chief may require the installation of aeration equipment in storage facilities when it is deemed necessary to preserve the quality of stored products.

ITEM 17. Amend subrule 90.26(1) as follows:

90.26(1) License period. A license for a temporary storage facility may be issued at any time but shall be effective for the storage of grain only from August 1 to May 1 of the following year. A temporary

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storage facility license shall ~~terminate~~ expire each May 1 unless the licensee requests and obtains an extension in accordance with subrule 90.26(2).

ITEM 18. Amend subrule 90.28(1) as follows:

90.28(1) License period. A license for polyvinyl bag storage space shall be effective from August 1 to May 1 of the following year. A polyvinyl bag storage space license shall ~~terminate~~ expire each May 1 unless the licensee requests and obtains an extension in accordance with subrule 90.28(2).

ITEM 19. Amend rule 21—90.31(203C) as follows:

21—90.31(203C) Review proceedings. A warehouse ~~licensee~~ operator or applicant may file a formal written complaint with the department if the ~~licensee~~ warehouse operator or applicant contests any finding or decision of the bureau chief. Any such complaints shall be resolved in contested case proceedings conducted pursuant to the applicable provisions of 21—Chapter 2.

ITEM 20. Adopt the following **new** definitions in rule **21—91.2(203)**:

“Generally accepted accounting principles” means accounting principles generally accepted in the United States of America, in accordance with the U.S. Financial Accounting Standards Board, or international financial reporting standards, in accordance with the International Accounting Standards Board.

“Indemnity fund” means the Iowa grain depositors and sellers indemnity fund created in Iowa Code chapter 203D.

ITEM 21. Amend rule 21—91.3(203) as follows:

21—91.3(203,203D) Application for a grain dealer license. Application for a grain dealer license (Iowa Code chapter 203) shall be made to the bureau on forms prescribed for that purpose by the bureau. Forms are available from the bureau upon request. All information required by Iowa Code chapter 203 shall be furnished. The bureau may require the applicant to file updated information if the information on the application is no longer current. ~~The background information on a person applying for the license and on the managers must be on file before a license is issued.~~ The application, financial statement, license fee, indemnity fund fee and background information on a person applying for a license and on the managers shall be on file before a license is issued.

This rule is intended to implement Iowa Code sections ~~203.2 and 203.3~~, 203.5, 203D.3 and 203D.3A.

ITEM 22. Amend rule 21—91.6(203) as follows:

21—91.6(203) Surrender of license. The grain dealer license and all unused credit-sale contracts shall be forwarded to the bureau immediately upon cancellation, ~~termination~~ suspension, or revocation of such license. A grain dealer’s letter requesting cancellation of the grain dealer license shall also state whether or not there are any unpaid obligations.

This rule is intended to implement Iowa Code sections 203.2, 203.3 and 203.7.

ITEM 23. Amend rule 21—91.7(203), catchwords, as follows:

21—91.7(203) Renewal, ~~termination~~ expiration and reinstatement of license—payment of license fee and indemnity fund fees.

ITEM 24. Amend subrule 91.7(1) as follows:

91.7(1) Renewals. The bureau shall send to each licensed grain dealer written notice that the application, ~~and the license fee and the indemnity fund fee~~ for annual renewal of the grain dealer license shall be received in accordance with Iowa Code section 203.5. If the bureau does not receive the application and ~~fee fees~~ by the due date, the license shall ~~be terminated~~ expire. A license that has ~~been terminated~~ expired may be reinstated within 30 days of the date of ~~termination~~ expiration conditioned on the applicant’s meeting all statutory requirements and the bureau’s receipt of the following within 30 days of the ~~termination~~ expiration:

a. Completed application;

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- b. License fee and indemnity fund fees; and
- c. The reinstatement fee prescribed in Iowa Code section 203.6.

ITEM 25. Amend subrule 91.8(2), introductory paragraph, as follows:

91.8(2) Financial statement requirements. Financial statements filed pursuant to subrules 91.8(1), 91.8(3), 91.8(4) and 91.8(11) shall be prepared in accordance with ~~accounting principles~~ generally accepted ~~in the United States~~ accounting principles and shall comply with either of the following:

ITEM 26. Amend paragraph **91.8(9)“a”** as follows:

a. *Corporations, limited liability companies and partnerships.* When the bureau determines the net worth, current assets to current liabilities ratio and total debts to total assets ratio requirements for corporations, limited liability companies and partnerships, related party assets that require financial disclosure per financial accounting standards shall be disallowed. These assets shall be excluded unless the licensee can show the ~~department~~ bureau sufficient documentation to ~~explain why these assets should be allowed~~ assure the bureau that the assets are collectible. If assets are classified as current in the financial statements, the documentation shall also assure that the assets are collectible within one year.

ITEM 27. Amend subrules 91.11(6) and 91.11(7) as follows:

91.11(6) Direct shipment records. When grain is delivered by a producer or the producer's agent to a third party in accordance with an agreement between the producer and the grain dealer and the grain is weighed at the destination, or is custom weighed, the ~~following shall apply:~~

~~a. The grain dealer shall maintain one copy of every direct shipment scale ticket in daily order as part of the grain records. These scale tickets shall have the name of the producer recorded on them.~~

~~b. The direct shipment is to be considered an obligation of the grain dealer on the date stated on the destination scale ticket, and the direct shipment shall be reflected in the daily position record on the date when the grain dealer is able to obtain the load weights.~~

~~c. If the destination weights are transferred to the grain dealer's scale tickets, the tickets shall contain a minimum of the producer's name and the destination scale ticket number and weights.~~

~~d. A grain dealer who also holds a warehouse operator license may maintain a separate daily position record for each kind of direct shipment grain. The grain dealer shall notify the bureau in writing if the grain dealer elects to maintain such a daily position record.~~

91.11(7) Credit-sale contracts. One copy of every outstanding credit-sale contract shall be maintained in numerical order as part of the records.

a. No change.

b. Notice of credit-sale contract acknowledgment. A licensed grain dealer who purchases grain by credit-sale contract shall obtain from the seller's signature on a notice of credit-sale contract seller a signed acknowledgment, stating that the seller has received notice that grain purchased by credit-sale contract is not protected by the grain depositors and sellers indemnity fund. Failure of the grain dealer to obtain the acknowledgment of the seller is a violation of Iowa Code section 203.15 and may result in license suspension or revocation under Iowa Code section 203.10. Failure of the grain dealer to obtain the acknowledgment does not alter the fact that the seller shall be unable to recover from the grain depositors and sellers indemnity fund any loss incurred under a credit-sale contract. The acknowledgment shall comply with one of the following:

(1) Be a separate form, which shall be in a form prescribed by the bureau. The notice shall state that the seller has received notice that the grain is not protected by the grain depositors and sellers indemnity fund. A copy of the notice shall be attached to the grain dealer's copy and seller's copy of the credit-sale contract. Failure of the grain dealer to obtain the acknowledgment of the seller is a violation of Iowa Code section 203.15 and may result in license suspension or revocation under Iowa Code section 203.10. Failure of the grain dealer to obtain the acknowledgment of the seller does not alter the fact that the seller shall be unable to recover from the grain depositors and sellers indemnity fund any loss incurred under the credit-sale contract; or

e. (2) In lieu of obtaining the separate credit-sale acknowledgment form, the The grain dealer may add the following wording to the credit-sale contract directly above the signature of the buyer and seller in bold size print of equal size or larger than the body of the contract: "By their signature hereto, the

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undersigned aver that the seller has been orally advised by the buyer that this transaction is not covered by the grain depositors and sellers indemnity fund.”; or

(3) The grain dealer may add the following wording to the credit-sale contract directly above the signature of the buyer and seller in bold print of equal size or larger than the body of the contract: “By their signature hereto, the undersigned acknowledge that the seller has received notice that this credit-sale transaction is not protected by the grain depositors and sellers indemnity fund.”

d. c. If someone other than the seller indicated on a credit-sale contract signs the contract, the grain dealer shall be able to provide the bureau with proof of business relationship between the indicated seller and the person who signed the contract. This document shall be signed by the person who produced the grain or caused the grain to be produced. The document is required for but not limited to contracts signed by the following:

(1) to (7) No change.

If a contract is issued to two or more sellers, all must sign the contract.

e. d. A licensee’s purchases of grain by credit-sale contract from a person licensed as a grain dealer in any jurisdiction are not subject to the requirements of 91.11(7). Any grain purchased from a grain dealer is not eligible for recovery from the grain depositors and sellers indemnity fund.

ITEM 28. Amend rule 21—91.12(203) as follows:

21—91.12(203) Assignment of contracts. Upon cancellation, ~~termination~~ expiration, suspension or revocation of the license, credit-sale contracts may be assigned to another grain dealer licensed under Iowa Code chapter 203 unless strictly prohibited in the terms of the credit-sale contract. The assignee shall notify all affected producers in writing of the assignment. A copy of the assignment shall be forwarded to the bureau showing the contracts assigned and to whom they are assigned within 30 days of cancellation, ~~termination~~ expiration, suspension or revocation of the license. All credit-sale contracts shall be paid for or reassigned within 30 days of cancellation, ~~termination~~ expiration, or revocation of the license.

This rule is intended to implement Iowa Code sections 203.2 and 203.15.

ITEM 29. Amend rule 21—91.13(203) as follows:

21—91.13(203) Filing of monthly grain statement and reports. A grain statement shall be prepared at the close of business at the end of each calendar month and filed with the bureau by the tenth of the following month. The grain statement shall be on a form or in a format prescribed by the bureau, ~~and furnished~~ The bureau shall furnish forms to the dealer upon request. A grain statement shall be filed for each calendar month regardless of whether or not the dealer has conducted any business during that period.

The bureau may require the dealer to file other types of reports, and the dealer shall file with the bureau any such report requested by the bureau within the time period as is specified by the bureau.

This rule is intended to implement Iowa Code section 203.2.

ITEM 30. Amend rule 21—91.16(203) as follows:

21—91.16(203) Requirements for Class 2 licensees. A Class 2 licensee whose purchases from producers during the fiscal year exceed \$500,000, and who is thereby required by Iowa Code section 203.3 to apply for a Class 1 license, shall file the application with the bureau within 30 days after the purchases exceed \$500,000. ~~The application shall include the additional \$250 annual assessment for Class 1 licensees required under rule 21—92.2(203D).~~

This rule is intended to implement Iowa Code section 203.3.

ITEM 31. Amend subrule 91.21(2) as follows:

91.21(2) Notice. The bureau shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location, and in a newspaper of general circulation in the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice

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shall also state that any claims against the bond on account of the licensee shall be ~~sent by certified mail to received by~~ the bureau within 120 days after the incurrence date, and that the failure to make a timely claim relieves the department from liability to the claimant. This notice may be incorporated by the bureau with the notice required by Iowa Code section 203.12.

ITEM 32. Amend subrule 91.23(4) as follows:

91.23(4) Provisions to cease issuing electronic grain contracts. Upon notice by the department that a grain dealer license issued under Iowa Code chapter 203 has expired or has been terminated, canceled, suspended or revoked, a provider shall prohibit the licensee from entering into any electronic grain contracts until further notice from the department. Upon notice by the department that a licensee has had its right to purchase grain by credit-sale contract suspended or denied under rule 21—91.17(203), a provider shall prohibit the licensee from entering into any electronic credit-sale grain contracts until further notice from the department.

ITEM 33. Amend rule 21—92.1(203D) as follows:

21—92.1(203D) Mandatory participation in fund. All grain dealers and state warehouse operators shall participate in the grain depositors and sellers indemnity fund (the fund) through the remission of the fees required in rule 21—92.2(203D). Failure to participate shall result in license suspension or revocation. As used in this chapter, “grain dealer” shall mean a licensed grain dealer pursuant to Iowa Code section 203.3 and “warehouse operator” shall mean a licensed warehouse operator pursuant to Iowa Code section 203C.6. “Licensee” shall mean either a licensed grain dealer or a licensed warehouse operator.

ITEM 34. Amend rule 21—92.2(203D) as follows:

21—92.2(203D) Required fees. Until the amounts are amended or waived by the grain indemnity fund board pursuant to Iowa Code section 203D.5, in accordance with Iowa Code chapter 17A, fees shall be assessed as follows:

92.2(1) A per-bushel fee on all purchased grain, in an amount of one-quarter cent per bushel, remitted by ~~the licensee.~~ grain dealers. However, if the grain dealer provides documentation satisfactory to the department, the following transactions shall be excluded from the per-bushel fee:

- a. Grain purchased from the United States government or any of its subdivisions or agencies.
- b. Grain purchased from a person licensed as a grain dealer in any jurisdiction.
- c. Grain purchased under a credit-sale contract.

92.2(2) An annual ~~grain dealer/warehouse~~ participation fee, remitted by ~~the licensee~~ licensees, as follows:

a. ~~For Class 1 grain dealers, \$500,~~ a participation fee of fourteen thousandths of a cent per bushel on all purchased grain entered into the company-owned paid position during the grain dealer’s last fiscal year. However, a grain dealer shall pay a minimum participation fee of \$50. Redemptions of collateral warehouse receipts entered into the company-owned paid position shall not be considered as a purchase.

b. ~~For Class 2 grain dealers, \$250.~~

e. b. For warehouse operators, a participation fee of fourteen thousandths of a cent per bushel of bulk grain storage capacity, or \$500, whichever is less. However, a warehouse operator shall pay a minimum participation fee of \$50.

~~(1) For intended storage of bulk grain in any quantity less than 20,000 bushels, \$42 plus \$7 for each 2,000 bushels or fraction thereof in excess of 20,000 bushels.~~

~~(2) For intended storage of bulk grain in any quantity not less than 20,000 bushels and not more than 50,000 bushels, \$70 plus \$4.50 for each 3,000 bushels or fraction thereof in excess of 20,000 bushels.~~

~~(3) For intended storage of bulk grain in any quantity not less than 50,000 bushels and not more than 70,000 bushels, \$115 plus \$4.50 for each 4,000 bushels or fraction thereof in excess of 50,000 bushels.~~

~~(4) For intended storage of bulk grain in any quantity not less than 70,000 bushels, \$137.50 plus \$2.75 for each 5,000 bushels or fraction thereof in excess of 70,000 bushels.~~

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

92.2(3) A grain dealer may pass on the cost of a per-bushel fee paid in accordance with 92.2(1) to the grain sellers by an itemized discount on the grain dealer's settlement sheet.

This rule is intended to implement Iowa Code sections 203D.3, 203D.3A and 203D.5.

ITEM 35. Rescind rule 21—92.3(203D) and adopt the following **new** rule in lieu thereof:

21—92.3(203D) New license applicants. Persons applying for a new grain dealer license or warehouse operator license shall pay a full annual participation fee in accordance with Iowa Code sections 203D.3A and 203D.5. This payment shall be made without regard to whether or not the grain indemnity fund board has otherwise waived or adjusted the per-bushel or participation fees for licenses. Payment of the fees shall be made before a new license is issued. A participation fee paid by an applicant shall be refunded if the license is not issued by the department. A participation fee paid by a grain dealer applicant shall be recalculated by the end of the first state fiscal quarter after completion of the grain dealer's first year of operation. The grain dealer participation fee shall be recalculated based upon all actual purchased grain entered into the company-owned paid position in the dealer's first year of operation. However, redemptions of collateral warehouse receipts entered in the company-owned paid position shall not be considered as a purchase. Underpayments shall be paid by the licensee in accordance with rule 21—92.4(203D), and overpayments shall be refunded by the department.

This rule is intended to implement Iowa Code sections 203D.3A and 203D.5.

ITEM 36. Amend rule 21—92.4(203D) as follows:

21—92.4(203D) Due date for payment of the per-bushel fee and participation fees.

92.4(1) Quarterly payments. The per-bushel fee and the participation fee installment payment established in Iowa Code section ~~203D.3~~ 203D.3A, as adjusted by rule 21—92.2(203D), and the quarterly report are due, except as provided in subrule 92.4(2), on the fifteenth day of the calendar fiscal month succeeding the calendar fiscal quarter in which the fee accrued. The calendar fiscal quarters are as follows: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31; January 1 through March 31; and April 1 through June 30.

92.4(2) Payments for licensees out of business. If a state grain dealer or warehouse operator license has expired or is revoked, ~~terminated~~, or canceled during the term of a calendar fiscal quarter, the quarterly report and per-bushel fee for that quarter are due 15 days after the date of license expiration, revocation, ~~termination~~, or cancellation.

92.4(3) Holidays. If the due date determined under subrules 92.4(1) and 92.4(2) falls on a Saturday, Sunday, a legal holiday as provided in Iowa Code section 4.1(34), or a Monday following a Sunday which is a named legal holiday, the due date is the following day.

92.4(4) Forms and payment. The quarterly report shall be submitted on forms or in a format prescribed and by the bureau. Required forms shall be provided by the grain warehouse bureau. The amount of the per-bushel fee, as calculated in the quarterly report, shall accompany the report. Checks shall be made payable to the Iowa Department of Agriculture and Land Stewardship (abbreviated as IDALS).

92.4(5) No change.

This rule is intended to implement Iowa Code ~~section~~ sections 203D.3 and 203D.3A.

ITEM 37. Amend rule 21—92.5(203D) as follows:

21—92.5(203D) Penalty for delinquent submission of per-bushel fee and participation fees.

92.5(1) Delinquent payments defined. In regard to the submission of the quarterly report, and per-bushel fee and the participation fee installment payment, the licensee is deemed to be delinquent if any of the following apply:

a. to c. No change.

d. The participation fee installment payment is not received on or before the due date.

92.5(2) Penalty amount. The amount of penalty for a delinquent submission is the lesser of the amount of the deficiency or \$10 per day for each day after the due date for the quarter in question, through

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

the earlier of the date the underpayment is received or the date the licensee's license has expired or has been revoked or canceled. However, a delinquent payment is subject to a minimum penalty amount of \$10.

92.5(2) 92.5(3) *Penalty when no assessment is due.* If the licensee is delinquent because the quarterly report is not received until after the due date, but no per-bushel fee was due for that quarter, there is a one-day penalty of \$10.

92.5(3) 92.5(4) *License suspension and revocation for failure to pay.* If the delinquency is not cured within 30 days after the due date, the grain dealer's or warehouse operator's license shall be suspended. If the delinquency is not cured within 30 days after suspension, the license shall be revoked.

92.5(4) 92.5(5) *Overpayments.* If, upon review of the quarterly report, the grain warehouse bureau determines that there has been an overpayment of \$1 or more, the bureau shall issue a credit to the licensee which may be applied against the amount of assessment due in succeeding quarters. Overpayments of less than \$1 are negated.

This rule is intended to implement Iowa Code ~~section~~ sections 203D.3 and 203D.3A.

ITEM 38. Amend subrule 92.6(3) as follows:

92.6(3) *Penalty amount.* If the licensee is delinquent, the penalty is the lesser of the amount of the deficiency or \$10 per day for each day after the due date for the quarter in question, through the earlier of the date the underpayment is received or the date the licensee's license is has expired or has been revoked, terminated, or canceled. However, a delinquent payment is subject to a minimum penalty amount of \$10.

ITEM 39. Amend rule **21—92.6(203D)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 203D.3 and 203D.3A.

ITEM 40. Amend rule 21—93.2(203D) as follows:

21—93.2(203D) The board. The grain indemnity fund board consists of seven members: the secretary of agriculture or the secretary's designee who shall serve as chairperson, ~~the commissioner of insurance or the commissioner's designee who shall serve as secretary,~~ the state treasurer or the state treasurer's designee who shall serve as treasurer, a representative of the banking industry and four representatives of the grain trade (two producers and two operators) industry. Grain industry representatives shall consist of two grain producers, one representative of warehouse operators licensed in accordance with Iowa Code section 203C.6 and one representative of grain dealers licensed in accordance with Iowa Code section 203.3. Each industry representative shall be appointed by the governor from a list of three nominees made by the secretary of agriculture.

This rule is intended to implement Iowa Code section 203D.4.

ITEM 41. Amend rule 21—93.3(203D) as follows:

21—93.3(203D) Authority of the board. The board has authority to determine the amount and validity of claims made against the fund, to review and adjust the per-bushel fee and the ~~dealer-warehouse grain dealer and warehouse operator participation~~ fee, and to approve costs of administering the fund. In addition, the board has the authority to act as an advisor to the secretary of agriculture on administrative matters affecting the fund, and as a result the board will make only policy recommendations in regard to the areas of administration delegated to the department in Iowa Code chapter 203D.

This rule is intended to implement Iowa Code section 203D.4.

ITEM 42. Amend subrule 93.4(2) as follows:

93.4(2) *General conduct of meetings.* The chairperson, ~~or secretary in the absence of the chairperson,~~ presides at all board meetings. Only individuals recognized by the presiding officer may address the board; in general, Robert's Rules of Order will govern the meeting unless otherwise stated in this chapter or by special action of the board.

In all discussions before the board, members of the public shall address any questions for the board to the presiding officer. Individual questioning of board members will not be allowed without the explicit consent of the presiding officer and the board members in question.

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

ITEM 43. Amend rule 21—93.5(203D) as follows:

21—93.5(203D) Minutes. The minutes of all board meetings are recorded and kept by the ~~secretary~~ grain warehouse bureau in the board's office.

This rule is intended to implement Iowa Code section 203D.4.

ITEM 44. Amend rule 21—93.8(203D) as follows:

21—93.8(203D) Waiver of per-bushel and annual grain dealer and warehouse operator participation fees. Pursuant to Iowa Code section 203D.5, the per-bushel and the annual grain dealer and warehouse operator participation fees are suspended and waived effective July 1, 1988, until reinstated by rule or statute. ~~This waiver applies to all fees which would have accrued on or after July 1, 1988.~~ To this extent, this rule supersedes rules 21—92.2(203D) and 21—92.4(203D). ~~However, this rule does not waive any fees or penalties which accrued before July 1, 1988, including annual fees which became due and payable on or before June 30, 1988. Penalties on delinquent per-bushel fees arising prior to July 1, 1988, shall continue to run until the delinquency is cured.~~ Further, this rule does not alter the requirement of Iowa Code section ~~203D.3(4)~~ 203D.3A that new licensees must pay the annual grain dealer and warehouse operator participation fees for the first year, as set out in Iowa Code section ~~203D.3~~ 203D.3A and in rule 21—~~subrule 92.2(2)~~ 92.3(203D).

This rule is intended to implement Iowa Code sections 203D.3, 203D.3A, 203D.4 and 203D.5.

ITEM 45. Adopt the following new definitions in rule **21—94.1(203D)**:

“*Credit-sale contract*” means a contract for the sale of grain pursuant to which the sale price is to be paid more than 30 days after the delivery of the grain to the buyer, or a contract which is titled as a credit-sale contract, including but not limited to those contracts commonly referred to as deferred-payment contracts, deferred-pricing contracts, and price-later contracts.

“*Department*” means the Iowa department of agriculture and land stewardship.

“*Licensed warehouse*” means a warehouse, the operation for which the department has issued a license in accordance with Iowa Code section 203C.6.

“*Warehouse receipt*” means a warehouse receipt issued for bulk grain in accordance with Iowa Code chapter 203C.

ITEM 46. Amend rule **21—94.1(203D)**, definition of “Warehouse operator,” as follows:

“*Warehouse operator*” ~~shall mean~~ means a licensed warehouse operator pursuant to Iowa Code section 203C.6.

ITEM 47. Amend rule 21—94.2(203D) as follows:

21—94.2(203D) By whom claims can be made. Claims shall be made only by a depositor or seller. Claims shall derive from a covered transaction. A claim shall not be made on grain which was initially eligible as a covered transaction but became not covered as a result of a new credit-sale contract transaction, ~~as defined by rule 21—92.3(203D)~~.

ITEM 48. Amend rule 21—94.4(203D) as follows:

21—94.4(203D) Time limitations. A claim against the fund may be made ~~anytime after the earlier of the license revocation, termination, or cancellation of a grain dealer's or warehouse operator's license or the grain dealer's or warehouse operator's filing a petition for bankruptcy.~~ for a covered transaction when either of the following incurrence dates occurs:

1. The expiration, revocation or cancellation of the license of a grain dealer or warehouse operator;

or

2. The filing of a petition in bankruptcy by a grain dealer or warehouse operator.

A claim shall be filed within a claim period that begins on an incurrence date and ends 120 days after that incurrence date. A claim is not timely unless ~~the claim~~ it is postmarked or delivered within 120 days after the ~~revocation, termination, or cancellation of a license, or the filing of a petition for bankruptcy~~ incurrence.

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ITEM 49. Amend rule 21—94.5(203D) as follows:

21—94.5(203D) Claims by depositors where bureau is receiver. In regard to claims by depositors arising against a warehouse operator whose license has expired or has been revoked, ~~terminated~~, or canceled and who has not filed a petition for bankruptcy and where the bureau has been appointed by the court as the receiver of the grain assets of the warehouse, a claim properly filed with the bureau as receiver within 120 days of the license expiration, revocation, ~~termination~~, or cancellation also is deemed to be a properly filed claim against the fund.

ITEM 50. Renumber subrule **94.10(2)** as **94.10(3)**.

ITEM 51. Adopt the following **new** subrule 94.10(2):

94.10(2) Time limitation on claims. A claim shall expire five years after the board determines a claim is payable if the claimant has failed to execute and return the subrogation and hold-harmless documents required by subrule 94.10(1). The fund is not liable for payment of expired claims.

[Filed 2/3/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9391B

COLLEGE STUDENT AID COMMISSION[283]

Adopted and Filed

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby amends Chapter 1, "Organization and Operation," Iowa Administrative Code.

The rules in Chapter 1 describe the location of the Commission, contact information, and the makeup of the Commission. This amendment updates the rules to reflect the new location of the Commission's offices and Iowa Code changes affecting membership of the Commission.

Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9271B**. The adopted amendment is identical to that published under Notice.

This amendment was approved during the January 21, 2011, meeting of the Iowa College Student Aid Commission.

This amendment will become effective on March 30, 2011.

This amendment is intended to implement Iowa Code chapter 261.

The following amendment is adopted.

Amend subrules 1.2(1) and 1.2(2) as follows:

1.2(1) Location. The commission is located in the ~~Clemens Iowa Building, 200 Tenth Street, Fourth Floor~~, 603 East 12th Street, 5th Floor, Des Moines, Iowa 50309-3609; telephone (515)242-3344 725-3400; Web site www.iowacollegeaid.org. Office hours are 8 a.m. to 4:30 p.m., Monday to Friday. Offices are closed on Saturdays and Sundays and on official state holidays designated in accordance with state law.

1.2(2) The commission. The commission consists of ~~12~~ 14 members and functions under the leadership of a chairperson elected by the membership. Eight members are appointed by the governor to serve four-year terms. Three of the governor's appointees represent the general public, one represents Iowa lending institutions, one represents Iowa independent colleges and universities, one represents Iowa community colleges, ~~one represents the Iowa student loan liquidity corporation, and one represents Iowa postsecondary students, and one shall be an individual who is repaying or has repaid a student loan guaranteed by the commission.~~ The One member is appointed by the board of regents, The president of the senate, and the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives each appoint a one ex officio, nonvoting commission

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

member. The director of the department of education serves as a continuous member of the commission and may appoint a designee to represent the department of education.

[Filed 2/3/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9392B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby amends Chapter 34, "Registered Nurse and Nurse Educator Loan Forgiveness Program," Iowa Administrative Code.

The rules in Chapter 34 describe the awarding of forgivable loans to registered nurses and nurse educators. This amendment updates rule 283—34.3(261) by eliminating restrictions on eligibility which originally ensured that applicants did not receive awards under both the current program and a program that has not been funded since fiscal year 2007.

Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9272B**. The adopted amendment is identical to that published under Notice.

This amendment was approved during the January 21, 2011, meeting of the Iowa College Student Aid Commission.

This amendment will become effective on March 30, 2011.

This amendment is intended to implement Iowa Code chapter 261.

The following amendment is adopted.

Rescind subrule **34.3(5)**.

[Filed 2/3/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9393B**COLLEGE STUDENT AID COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the Iowa College Student Aid Commission hereby amends Chapter 35, "Iowa Teacher Shortage Loan Forgiveness Program," Iowa Administrative Code.

The rules in Chapter 35 describe the awarding of forgivable loans to teachers. This amendment updates rule 283—35.4(261) by eliminating restrictions on eligibility which originally ensured that applicants did not receive awards under both the current program and a program that has not been funded since fiscal year 2007.

Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9273B**. The adopted amendment is identical to that published under Notice.

This amendment was approved during the January 21, 2011, meeting of the Iowa College Student Aid Commission.

This amendment will become effective on March 30, 2011.

This amendment is intended to implement Iowa Code chapter 261.

The following amendment is adopted.

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

Amend subrule 35.4(3) as follows:

35.4(3) *Extent of forgiveness.* Recipients may receive loan forgiveness for no more than five consecutive years. Recipients who fail to complete five consecutive years of teaching in the designated shortage areas will not be considered for subsequent years of forgiveness.

~~Applicants who received funding under the teacher shortage forgivable loan program will be eligible for funding under the Iowa teacher shortage loan forgiveness program for five years minus one year for each year that a loan was received under the teacher shortage forgivable loan program.~~

[Filed 2/3/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9386B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 12, "Fees," Iowa Administrative Code.

The changes in this new rule are needed to inform applicants about the processes that will be put in place in the Board office. For some time now, the staff has had difficulty determining when to close an application if an applicant has not completed the application process. This rule clearly spells out the procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 2010, as **ARC 9203B**. A public hearing on the amendment was held on Wednesday, November 24, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective March 30, 2011.

The following amendment is adopted.

Adopt the following **new** rule 282—12.9(272):

282—12.9(272) Retention of incomplete applications.

12.9(1) *Timeline for complete application materials to be submitted.* Upon receipt of an incomplete application, the executive director will send a letter of deficiencies to the applicant stipulating that complete application materials must be submitted to the board office within 45 days of the date the letter is received. If the materials are not received within that timeline, the application process will be closed. If the applicant submits information after the 45-day deadline, the application process requires submission of a complete set of application materials and fees, including late fees if applicable, for practicing with an expired license, without the proper endorsement, or without an Iowa board-issued license.

12.9(2) *Background check.* The background check fee will be valid for one year. If a license is not issued within one year of a completed background check, the background check shall be considered void.

12.9(3) *Timeline for audited online renewals.* Upon receipt of notification that the online renewal application has been audited, the applicant shall have 45 days to submit the official transcripts and mandatory reporter verification to the board office. If the materials are not received within that timeline, the applicant will be notified that the application process is closed. If the applicant submits information after the 45-day deadline, the application process requires submission of a complete set of application materials and fees. If the license expires during the 45-day deadline and the applicant is teaching, the school district will be notified that the applicant's license is expired and the individual shall not continue teaching until the complete application materials are submitted to the board office.

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

[Filed 2/2/11, effective 3/30/11]

[Published 2/23/11]

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ARC 9383B

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

This amendment updates and removes obsolete language. The Board no longer offers an exchange license but does issue a Class A license for those applicants completing their administrator program out of state who may have deficiencies.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 2010, as **ARC 9199B**. A public hearing on the amendment was held on Wednesday, November 24, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective March 30, 2011.

The following amendment is adopted.

Amend rule 282—18.6(272) as follows:

282—18.6(272) Specific requirements for an administrator ~~exchange license prepared out of state.~~ An applicant seeking Iowa licensure who completes an administrator preparation program from a recognized non-Iowa institution shall verify the requirements of rules 282—18.1(272) and 282—18.4(272) through traditional course-based preparation program and transcript review. A recognized non-Iowa administrator preparation institution is one that is state-approved and is accredited by the regional accrediting agency for the territory in which the institution is located.

18.6(1) No change.

~~**18.6(2) Authorization.** Each exchange license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrator licensure was completed.~~

~~**18.6(3) Conversion.** Each individual receiving the one-year exchange license must complete any identified licensure deficiencies in order to be eligible for a professional administrator license in Iowa.~~

[Filed 2/2/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9384B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

This amendment updates and removes obsolete language. The Board does not offer an exchange license for those applicants completing their administrative program out of state who have deficiencies. In addition, language in subrules 18.7(3) and 18.7(4) pertaining to teacher preparation has been stricken or revised because it is not required in the administrator preparation rule.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 2010, as **ARC 9200B**. A public hearing on the amendment was held on Wednesday, November 24, 2010. No one attended the public hearing, and no written comments were received. One minor change from the Notice has been made. The word "licensure" was changed to "license" in subrule 18.7(5).

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective March 30, 2011.

The following amendment is adopted.

Amend rule 282—18.7(272) as follows:

282—18.7(272) Specific requirements for a Class A license. A nonrenewable Class A license valid for one year may be issued to an individual applicant who has completed an administrator preparation program under any one of the following conditions:

18.7(1) and 18.7(2) No change.

~~**18.7(3) Recency.** The individual meets the requirement(s) for a valid license, but has had fewer than 160 days of teaching experience during the five-year period immediately preceding the date of application or has not completed six semester hours of college credit from a recognized institution within the five-year period. To obtain the desired license, the applicant must complete recent credits and, where recent credits are required, these credits shall be taken in professional education or in the applicant's endorsement area(s).~~

~~**18.7(4) 18.7(3)** Based on an expired Iowa certificate or license, exclusive of a Class A, or Class B, Class C, or Class D license.~~ The holder of an expired license, exclusive of a Class A, or Class B, Class C, or Class D license, shall be eligible to receive a Class A license upon application. This license shall be endorsed for the type of service authorized by the expired license on which it is based.

~~**18.7(5) Based on an administrative decision.** The executive director is authorized to issue a Class A license to an applicant whose services are needed to fill positions in unique need circumstances.~~

~~**18.7(6) 18.7(4)** Based on evaluator requirement.~~ The individual applicant has not completed the approved evaluator training requirement.

~~**18.7(5) Authorization.** Each Class A license shall be limited to the area(s) and level(s) of administration as determined by an analysis of the application, the transcripts, and the license or certificate held in the state in which the basic preparation for the administrator license was completed.~~

~~**18.7(6) Conversion.** Each applicant receiving the one-year Class A license must complete any identified licensure deficiencies in order to be eligible for a professional administrator license in Iowa.~~

[Filed 2/2/11, effective 3/30/11]

[Published 2/23/11]

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ARC 9385B**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 18, "Issuance of Administrator Licenses and Endorsements," Iowa Administrative Code.

This amendment updates and removes obsolete language. An applicant with few of the requirements for licensure completed will have to go before the Board rather than to staff for a decision regarding licensure. The language in subrule 18.8(3) is stricken because the applicant will be required to go through the waiver process.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 3, 2010, as **ARC 9201B**. A public hearing on the amendment was held on Wednesday, November 24, 2010. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective March 30, 2011.

The following amendment is adopted.

Amend rule 282—18.8(272) as follows:

282—18.8(272) Specific requirements for a Class B license. A nonrenewable Class B license valid for two years may be issued to an individual under the following conditions:

18.8(1) Endorsement in progress. The individual has a valid Iowa teaching license, but is seeking to obtain an administrator endorsement. A Class B license may be issued if requested by an employer and the individual seeking this endorsement has completed at least ~~two-thirds~~ 75 percent of the requirements leading to completion of all requirements for this endorsement.

18.8(2) No change.

18.8(3) Request for exception. ~~A school district administrator may file a written request with the board for an exception to the minimum content requirements on the basis of documented need and benefit to the instructional program. The board will review the request and provide a written decision either approving or denying the request.~~

[Filed 2/2/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9376B**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 41, "Special Education," Iowa Administrative Code.

These amendments are technical in nature. First, the term "mental disability" is replaced with "intellectual disability." This change is in line with recent federal legislation on this topic. No substantive change is intended.

Second, the term "preappeal conference" is deleted and replaced with "mediation conference" (or simply "conference"). This change is based on technical assistance from the United States Department of Education, which stated that the term "preappeal conference" could be misconstrued by those persons who are inexperienced with special education procedural safeguards, such as being misconstrued to be a prerequisite to other procedural safeguards. No substantive change is intended. A rule of construction is

EDUCATION DEPARTMENT[281](cont'd)

added, providing that the Department will continue to accept filings labeled as requests for a “preappeal conference.” The Department also made technical and conforming corrections to requirements to file a request for a mediation conference prior to or without filing a due process complaint.

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

Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9269B**. Public comments were allowed until 4:30 p.m. on January 11, 2011. Two public hearings were held, one on January 4, 2011, and the other on January 11, 2011. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments shall become effective March 30, 2011.

These amendments are intended to implement Iowa Code chapter 256B and 34 CFR Part 300.

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 [amendments to Ch 41] is being omitted. These amendments are identical to those published under Notice as **ARC 9269B**, IAB 12/15/10.

[Filed 1/28/11, effective 3/30/11]

[Published 2/23/11]

[For replacement pages for IAC, see IAC Supplement 2/23/11.]

ARC 9375B**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 41, “Special Education,” Iowa Administrative Code.

Based on technical assistance received from the United States Department of Education, the State Board of Education adopts these amendments to clarify that enforcement actions taken by the Department are mandatory, not permissive. These amendments conform to the Department’s current practice.

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

Notice of Intended Action was published in the October 6, 2010, Iowa Administrative Bulletin as **ARC 9147B**. Public comments were allowed until 4:30 p.m. on November 2, 2010. Two public hearings were held, one on October 26, 2010, and the other on November 2, 2010. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments shall become effective March 30, 2011.

These amendments are intended to implement Iowa Code chapter 256B and 34 CFR Part 300.

The following amendments are adopted.

ITEM 1. Amend subrule 41.604(1), introductory paragraph, as follows:

41.604(1) Needs assistance. If the state determines for two consecutive years that an LEA or AEA needs assistance under 41.603(2) “b” in implementing the requirements of Part B of the Act, the state ~~may~~ shall take one or more of the following actions:

ITEM 2. Amend paragraph **41.604(2)“b”** as follows:

b. The state ~~may~~ shall take one or more of the following actions:

(1) Require the LEA or AEA to prepare a corrective action plan or improvement plan if the state determines that the LEA or AEA should be able to correct the problem within one year.

(2) Withhold, in whole or in part, any further payments to the AEA or LEA under Part B of the Act.

ITEM 3. Amend subrule 41.604(3), introductory paragraph, as follows:

41.604(3) Needs substantial intervention. Notwithstanding subrule 41.604(1) or 41.604(2), at any time that the state determines that an LEA or AEA needs substantial intervention in implementing the

EDUCATION DEPARTMENT[281](cont'd)

requirements of Part B of the Act or of this chapter or that there is a substantial failure to comply with any condition of an LEA's eligibility or an AEA's eligibility under Part B of the Act or this chapter, the state ~~may~~ shall take one or more of the following actions:

[Filed 1/28/11, effective 3/30/11]

[Published 2/23/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9377B

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 102, "Procedures for Charging and Investigating Incidents of Abuse of Students by School Employees," Iowa Administrative Code.

The amendments are the result of routine Department review of these rules, as well as feedback from "designated investigators," as that term is defined in these rules. The amendment in Item 1 conforms the definition of "sexual harassment" to the definition in Iowa Code section 280.28. The amendments in Items 2, 3, 6, 7, and 8 avoid use of the word "victim" inasmuch as that term is not in the underlying statute. The amendments in Items 4 and 5 are proposed as a result of actual practice and to make the process more user-friendly for students and their families. The amendments in Item 9 are not substantive and are made to reflect the correct numbering system for the Iowa Administrative Code.

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

Notice of Intended Action was published in the December 15, 2010, Iowa Administrative Bulletin as **ARC 9268B**. Public comments were allowed until 4:30 p.m. on January 4, 2011. No written or oral comments were received.

These amendments are identical to those published under Notice.

These amendments shall become effective March 30, 2011.

These amendments are intended to implement Iowa Code section 280.17.

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 [amendments to Ch 102] is being omitted. These amendments are identical to those published under Notice as **ARC 9268B**, IAB 12/15/10.

[Filed 1/28/11, effective 3/30/11]

[Published 2/23/11]

[For replacement pages for IAC, see IAC Supplement 2/23/11.]

ARC 9378B

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 103, "Corporal Punishment Ban; Restraint; Physical Confinement and Detention," Iowa Administrative Code.

In 2008, detailed rules regarding seclusion ("time out" rooms) and restraint of students, including allowable parameters when a student is physically confined or detained, were added to this chapter. Item 1 contains a technical correction only. Iowa Protection and Advocacy has suggested amendments to the rules that the Department believes are in the best interest of students, and these are reflected in Item 2.

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

EDUCATION DEPARTMENT[281](cont'd)

Notice of Intended Action was published in the October 6, 2010, Iowa Administrative Bulletin as **ARC 9146B**. Public comments were allowed until 4:30 p.m. on October 26, 2010. Iowa Protection and Advocacy stated that it is concerned about the expectation that a school district will self-report. The Department believes that there are sufficient mechanisms (records must be maintained and available for inspection, as well as the periodic accreditation site reviews by Department staff) to negate this concern. The rules are not further amended to reflect this comment.

The Iowa State Education Association commented that the requirement that results of an investigation be communicated to parents of an affected student may violate the confidentiality of personnel records under Iowa Code section 22.7(11). The Department agrees and has amended Item 2 to add the phrase “to the extent permitted by law.” Also, proposed Item 3 was not adopted in deference to a comment from a member of the Administrative Rules Review Committee. Other than as so noted, these amendments are identical to those published under Notice.

These amendments shall become effective March 30, 2011.

These amendments are intended to implement Iowa Code sections 256B.3 and 280.21.

The following amendments are adopted.

ITEM 1. Amend rule **281—103.6(256B,280)**, numbered paragraph “5,” as follows:

5. The period of detention and confinement is reasonable, considering the age, size, and physical and mental condition of the student subject to confinement and detention, and not in excess of the hours in a school day as defined by local board policy or rule; however, reasonable periods of before- and after-school detention are permissible. If a period of physical confinement and detention exceeds the shorter of 60 minutes or the school’s typical class period, staff members shall evaluate the continued need for physical confinement and detention, shall obtain administrator (or designee) approval for any continued confinement and detention ~~beyond the initial periodic reevaluation~~, and shall comply with any administrator (or designee) directives concerning any continued confinement and detention;

ITEM 2. Adopt the following new numbered paragraphs “5” and “6” in rule **281—103.8(256B,280)**:

5. An agency covered by this chapter shall investigate any complaint or allegation that one or more of its employees violated one or more of the provisions of this chapter. If an agency covered by this chapter determines that one or more of its employees violated one or more of the provisions of this chapter, the agency shall take appropriate corrective action. If any allegation involves a specific student, the agency shall transmit to the parents of the student the results of its investigation, including, to the extent permitted by law, any required corrective action;

6. If any alleged violation of this chapter is also an allegation of “abuse” as defined in rule 281—102.2(280), the procedures in 281—Chapter 102 shall be applicable.

[Filed 1/28/11, effective 3/30/11]

[Published 2/23/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 2/23/11.

ARC 9397B

IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM[495]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees’ Retirement System (IPERS) hereby amends Chapter 4, “Employers,” Chapter 6, “Covered Wages,” Chapter 16, “Domestic Relations Orders and Other Assignments,” and Chapter 21, “Mergers,” Iowa Administrative Code.

The amendments implement new contribution rates for IPERS special service employers and members and clarify provisions for the administration of marital property orders.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495](cont'd)

The amendments also clarify that IPERS determines covered wage limits under both Sections (A) and (B) of IRC Section 401(a)(17). The express references to Sections (A) and (B) were inadvertently omitted when the rules were revised and republished in 2008. The related changes correct that error.

The amendments to special service contributions were prepared after consultation with IPERS actuary, the Investment Board, the Benefits Advisory Committee, and IPERS administration. The remaining amendments were prepared in consultation with IPERS legal advisors and IPERS administration.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9310B** on December 29, 2010. A public hearing was held on January 18, 2011. No one attended the public hearing, and no written comments were received. IPERS also attended the Administrative Rules Review Committee meeting on January 4, 2011. No suggestions for changes were made.

The amendments are identical to those published under Notice.

There are no waiver provisions included in the amendments.

These amendments are intended to implement Iowa Code sections 97B.4 and 97B.15.

These amendments will become effective March 30, 2011.

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 [4.3(8), 4.6, 6.1, 6.4(2), 16.2, 21.1(4)] is being omitted. These amendments are identical to those published under Notice as **ARC 9310B**, IAB 12/29/10.

[Filed 2/4/11, effective 3/30/11]

[Published 2/23/11]

[For replacement pages for IAC, see IAC Supplement 2/23/11.]

ARC 9395B**REGENTS BOARD[681]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby adopts an amendment to Chapter 8, "Purchasing," Iowa Administrative Code.

This amendment revises rule 681—8.9(68B,262) to make Regent purchasing policy consistent with that of state government as outlined by Iowa Code section 68B.3 for vendors with conflicts of interest.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 1, 2010, as **ARC 9242B**. A 20-day comment period was established. No comments were received. The adopted amendment is identical to the amendment published under Notice of Intended Action.

The Board of Regents adopted this amendment on February 3, 2011.

This amendment is intended to implement Iowa Code section 262.9(3).

This amendment shall become effective March 30, 2011.

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 [8.9] is being omitted. This amendment is identical to that published under Notice as **ARC 9242B**, IAB 12/1/10.

[Filed 2/4/11, effective 3/30/11]

[Published 2/23/11]

[For replacement pages for IAC, see IAC Supplement 2/23/11.]

AGENCY	RULE	DELAY
Environmental Protection Commission[567]	61.2(2)“g”(8) [IAB 1/12/11, ARC 9330B]	Effective date of February 16, 2011, delayed 70 days by the Administrative Rules Review Committee at its meeting held February 11, 2011. [Pursuant to §17A.4(7)]