



IOWA ADMINISTRATIVE BULLETIN

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July 13, 2011

NUMBER 1
Pages 1 to 52

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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.

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 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>
3	Friday, July 22, 2011	August 10, 2011
4	Friday, August 5, 2011	August 24, 2011
5	Friday, August 19, 2011	September 7, 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*****

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Approval of contract amendments for targeted industries internship program, 104.3, 104.13(4), 175.2(5), 175.4(4) IAB 7/13/11 ARC 9617B	Northeast Second Floor Conference Room 200 E. Grand Ave. Des Moines, Iowa	August 2, 2011 2:30 to 3:30 p.m.
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EDUCATIONAL EXAMINERS BOARD[282]

Fees—professional service license, 12.1, 12.2 IAB 6/29/11 ARC 9570B	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	July 20, 2011 1 p.m.
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Reexaminations for state-specific land surveying examination candidates, 5.1(8)“e” IAB 6/29/11 ARC 9567B	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	July 20, 2011 9 to 11 a.m.
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Continuing education—self-study activities, 3.2(2) IAB 6/29/11 ARC 9569B	Professional Licensing Bureau Offices 1920 SE Hulsizer Rd. Ankeny, Iowa	July 20, 2011 9 to 11 a.m.
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NATURAL RESOURCE COMMISSION[571]

Deer hunting by nonresidents, 106.7(8), 106.9 IAB 6/29/11 ARC 9587B	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	July 19, 2011 1 p.m.
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Respiratory care practitioners—licensure, discipline, 261.8(1), 263.2(11) IAB 7/13/11 ARC 9595B	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 10, 2011 9 to 9:30 a.m.
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Respiratory care practitioners—continuing education, 262.4 IAB 7/13/11 ARC 9594B	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 10, 2011 9 to 9:30 a.m.
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Social workers—discipline, 283.2(11) IAB 7/13/11 ARC 9596B	Fifth Floor Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 10, 2011 9:30 to 10 a.m.
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Delegated prescribing by physician assistants, 327.6(1)“d” IAB 6/29/11 ARC 9580B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	July 19, 2011 9:30 to 10 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Licensure of plumbing and mechanical systems professionals—fees, 28.1, 28.2 IAB 7/13/11 ARC 9610B (See also ARC 9603B herein) (ICN Network)	Department of Public Health Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa Room Location: Sixth Floor	August 10, 2011 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa Room Location: Louisa Room	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 2500 Summer St. Burlington, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	Department of Human Services 417 E. Kanesville Blvd. Council Bluffs, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 195 Radford Rd. Dubuque, Iowa Room Location: ICN Classroom	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 1659 Nelson Ave. Fort Dodge, Iowa Room Location: NE corner of building	August 10, 2011 11 a.m. to 1 p.m.
	University of Iowa – 1 At the end of North Madison St. Iowa City, Iowa Room Location: 103	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 1160 19th St., SW Mason City, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 2858 N. Court Rd. Ottumwa, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	Department of Human Services Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	August 10, 2011 11 a.m. to 1 p.m.
Plumbing and mechanical systems professionals—application, licensure, examination, 29.1, 29.2, 29.6, 29.7, 29.9 IAB 7/13/11 ARC 9612B (See also ARC 9604B herein) (ICN Network)	Department of Public Health Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa Room Location: Sixth Floor	August 10, 2011 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa Room Location: Louisa Room	August 10, 2011 11 a.m. to 1 p.m.
	National Guard Armory 2500 Summer St. Burlington, Iowa	August 10, 2011 11 a.m. to 1 p.m.
	Department of Human Services 417 E. Kanesville Blvd. Council Bluffs, Iowa	August 10, 2011 11 a.m. to 1 p.m.

PUBLIC HEALTH DEPARTMENT[641] (Cont'd)

(ICN Network)	National Guard Armory 195 Radford Rd. Dubuque, Iowa Room Location: ICN Classroom	August 10, 2011 11 a.m. to 1 p.m.	
	National Guard Armory 1659 Nelson Ave. Fort Dodge, Iowa Room Location: NE corner of building	August 10, 2011 11 a.m. to 1 p.m.	
	University of Iowa – 1 At the end of North Madison St. Iowa City, Iowa Room Location: 103	August 10, 2011 11 a.m. to 1 p.m.	
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	Department of Human Services Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	August 10, 2011 11 a.m. to 1 p.m.	
	Plumbing and mechanical systems professionals—continuing education, 30.2 to 30.4, 30.6(1) IAB 7/13/11 ARC 9613B (See also ARC 9605B herein) (ICN Network)	Department of Public Health Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa Room Location: Sixth Floor	August 10, 2011 11 a.m. to 1 p.m.
	Mississippi Bend AEA 9 729 21st St. Bettendorf, Iowa Room Location: Louisa Room	August 10, 2011 11 a.m. to 1 p.m.	
	National Guard Armory 2500 Summer St. Burlington, Iowa	August 10, 2011 11 a.m. to 1 p.m.	
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	University of Iowa – 1 At the end of North Madison St. Iowa City, Iowa Room Location: 103	August 10, 2011 11 a.m. to 1 p.m.	
	National Guard Armory 1160 19th St., SW Mason City, Iowa	August 10, 2011 11 a.m. to 1 p.m.	

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National Guard Armory
2858 N. Court Rd.
Ottumwa, Iowa

August 10, 2011
11 a.m. to 1 p.m.

Department of Human Services
Pinecrest Office Bldg.
1407 Independence Ave.
Waterloo, Iowa

August 10, 2011
11 a.m. to 1 p.m.

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201.2(1)
IAB 6/15/11 **ARC 9561B**

First Floor Public Conference Room
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

August 2, 2011
10 a.m.

State building code—bleachers,
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IAB 6/15/11 **ARC 9562B**

First Floor Public Conference Room
Public Safety Headquarters Bldg.
215 E. 7th St.
Des Moines, Iowa

August 2, 2011
10 a.m.

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Renewable energy tax credits,
15.19, 15.21
IAB 7/13/11 **ARC 9609B**

Utilities Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

August 23, 2011
10 a.m.

The following list will be updated as changes occur.

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

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

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

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ARC 9617B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF [261]**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 15.104 and 15.106, the Iowa Department of Economic Development gives Notice of Intended Action to amend Chapter 104, “Targeted Industries Internship Program,” and Chapter 175, “Application Review and Approval Procedures,” Iowa Administrative Code.

The current rules allow the Economic Development Board to take final action on applications and other activities funded through the Iowa Values Fund, High Quality Jobs Program and the Enterprise Zone Program.

The proposed amendments adjust the Board approval process by allowing the Director to approve contract amendments for the Targeted Industries Internship Program. Additionally, the amendments delete a reference to the HOME Program, which was transferred to the Iowa Finance Authority pursuant to action by the Governor.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 2, 2011. Interested persons may submit written comments to Paul Stueckradt, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3045; or E-mail Paul.Stueckradt@iowa.gov.

A public hearing will be held on August 2, 2011, from 2:30 to 3:30 p.m. in the Northeast 2nd Floor Conference Room at the Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa.

The Governor’s office precleared the amendments on May 13, 2011.

The IDED Board adopted the amendments on June 16, 2011.

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

These amendments are intended to implement Iowa Code sections 15.104 and 15.108.

The following amendments are proposed.

ITEM 1. Adopt the following **new** definition in rule **261—104.3(15)**:

“*Director*” means the director of the Iowa department of economic development.

ITEM 2. Adopt the following **new** subrule 104.13(4):

104.13(4) Contract amendments. The board does not need to approve a contract amendment. The director may approve contract amendments consistent with Iowa Code section 15.106.

ITEM 3. Amend subrule 175.2(5) as follows:

175.2(5) Federal programs. The department administers federal programs including, but not limited to, ~~the HOME program and~~ the CDBG program. EDSA is the job creation component of the CDBG program. The department will review an application to ensure that the project meets the requirements for the programs through which an applicant is applying.

ITEM 4. Amend paragraph **175.4(4)“a,”** introductory paragraph, as follows:

a. Approval. Application approval procedures shall comply with statutory requirements for the program or funding source and applicable program rules. The board shall take final action on all applications or activities funded through IVF(2009), HQJP, EZ and other programs as described in the following paragraphs. The director may approve contract amendments for the targeted industries internship program consistent with Iowa Code section 15.106. The director shall take action on all other applications or activities that are not identified as requiring board action. Paragraphs “b” to “e” describe the review and approval processes, by funding source and program.

ARC 9602B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Termination

Pursuant to the authority of Iowa Code sections 455B.173, 459.103 and 459A.104, the Environmental Protection Commission terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on December 15, 2010, as **ARC 9274B**, which proposed to amend Chapter 60, "Scope of Title—Definitions—Forms—Rules of Practice," Chapter 63, "Monitoring, Analytical and Reporting Requirements," Chapter 64, "Wastewater Construction and Operation Permits," and Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

As required by the Iowa General Assembly pursuant to Iowa Code subsection 459.311(2), the Commission proposed amendments to update the rules regarding confinement feeding operations to conform to the 2008 federal regulations pertaining to National Pollutant Discharge Elimination System (NPDES) permits. In the statutory provision, the Iowa General Assembly required that the rules "shall be no more stringent than" the federal regulations regarding NPDES requirements for concentrated animal feeding operations (CAFOs). In addition, the proposed amendments included revisions to open feedlot rules and other NPDES-related rules to conform to the 2008 federal regulations regarding NPDES requirements and included several "housekeeping" type corrections and updates.

On March 15, 2011, the U.S. Court of Appeals for the 5th Circuit vacated portions of the 2008 federal regulations. Specifically, the court vacated those provisions of the 2008 federal regulations that (1) required CAFOs that propose to discharge to apply for an NPDES permit and (2) created liability for failure to apply for an NPDES permit. Future amendments to the 2008 federal regulations to conform to the 5th Circuit decision will not occur by July 10, 2011, which is when the Commission's 180-day time limit for completion of rule making will be reached. The Commission will commence rule making again when there is final resolution at the federal level of the currently vacated portions of the 2008 federal regulations. Only at that time can the Commission be assured that its rules are "no more stringent than" the federal CAFO regulations. Therefore, rule making for **ARC 9274B** is terminated.

ARC 9607B

HISTORICAL DIVISION[223]

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 303.1A, the Director of the Department of Cultural Affairs hereby gives Notice of Intended Action to amend Chapter 48, "Historic Preservation and Cultural and Entertainment District Tax Credits," Iowa Administrative Code.

The amendments to Chapter 48 clarify qualified rehabilitation costs, rehabilitation period, and substantial rehabilitation in accordance with 2011 Iowa Acts, Senate File 521, amending Iowa Code chapter 404A.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on August 2, 2011. Interested persons may submit written or oral comments by contacting Kristen Vander Molen, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)281-6975; E-mail kristen.vandermolen@iowa.gov. Persons who wish to convey their views orally should contact the Department of Cultural Affairs at (515)281-4228.

The rule making will have no fiscal impact.

HISTORICAL DIVISION[223](cont'd)

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9608B**. The content of that submission is incorporated by reference.

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

These amendments are intended to implement Iowa Code chapter 303 and chapter 404A as amended by 2011 Iowa Acts, Senate File 521.

ARC 9618B

LOTTERY AUTHORITY, IOWA[531]

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 chapter 99G and section 17A.3, the Iowa Lottery Authority hereby gives Notice of Intended Action to adopt new Chapter 21, “Drawings and Contests,” Iowa Administrative Code.

This proposed amendment is necessary to implement the Iowa Lottery Authority’s new enhanced VIP Club. The enhanced VIP Club provides additional value to players and is being implemented by the Lottery as part of its conversion process to a new online ticket system. More recently, the Lottery’s vendor for the project, MDI, indicated that it did not recommend the Lottery require players to keep their lottery tickets and turn them in after the promotions. The vendor indicated that the unique codes on each ticket would provide sufficient security and proof of ownership of the ticket if the ticket numbers were entered into the promotions via the Internet. The administrative rules currently require players to present a signed ticket to a retailer or the Lottery for validation purposes. Moreover, the Lottery does not have provisions to define the contests and drawings it holds. The enhanced VIP Club began on May 16, 2011, but will begin running promotions in July for which players will not be required to keep their tickets to redeem a prize.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 2, 2011. Such written comments or suggestions should be directed to Molly Juffernbruch, Iowa Lottery Authority, 2323 Grand Avenue, Des Moines, Iowa 50312; E-mailed to mjuffernbruch@ialottery.com; or faxed to (515)725-7882.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 9611B**. The content of that submission is incorporated herein by reference.

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

This amendment is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

ARC 9595B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 152B.6, the Board of Respiratory Care hereby gives Notice of Intended Action to amend Chapter 261, “Licensure of Respiratory Care Practitioners,” and Chapter 263, “Discipline for Respiratory Care Practitioners,” Iowa Administrative Code.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

The proposed amendments remove the requirement for renewal notices to be sent by regular mail and clarify that conviction of a crime includes when the judgment of conviction or sentence was deferred.

Any interested person may make written comments on the proposed amendments no later than August 10, 2011, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail tony.alden@idph.iowa.gov.

A public hearing will be held on August 10, 2011, from 9 to 9:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

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

These amendments are intended to implement Iowa Code chapters 21, 147, 152B and 272C.

The following amendments are proposed.

ITEM 1. Amend subrule 261.8(1) as follows:

261.8(1) The biennial license renewal period for a license to practice respiratory care shall begin on April 1 of an even-numbered year and end on March 31 of the next even-numbered year. ~~The board shall send a renewal notice by regular mail to each licensee at the address on record at least 60 days prior to the expiration of the license.~~ The licensee is responsible for renewing the license prior to its expiration. Failure of the licensee to receive the notice does not relieve the licensee of the responsibility for renewing the license.

ITEM 2. Amend subrule 263.2(11) as follows:

263.2(11) Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9594B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 152B.6, the Board of Respiratory Care hereby gives Notice of Intended Action to amend Chapter 262, “Continuing Education for Respiratory Care Practitioners,” Iowa Administrative Code.

The proposed amendment rescinds duplicate language pertaining to continuing education audits that is already found in rule 645—4.11(272C), audit of continuing education.

Any interested person may make written comments on the proposed amendment no later than August 10, 2011, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail tony.alden@idph.iowa.gov.

A public hearing will be held on August 10, 2011, from 9 to 9:30 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 152B and 272C.

The following amendment is proposed.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Rescind and reserve rule **645—262.4(152B,272C)**.

ARC 9596B**PROFESSIONAL LICENSURE DIVISION[645]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 154C.4, the Board of Social Work hereby gives Notice of Intended Action to amend Chapter 283, “Discipline for Social Workers,” Iowa Administrative Code.

The proposed amendment clarifies that conviction of a crime includes when the judgment of conviction or sentence was deferred. In addition, the proposed amendment changes the word “felony” to “crime” to be consistent with the Iowa Code chapter 147 requirements.

Any interested person may make written comments on the proposed amendment no later than August 10, 2011, addressed to Tony Alden, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail tony.alden@idph.iowa.gov.

A public hearing will be held on August 10, 2011, from 9:30 to 10 a.m. in the Fifth Floor Conference Room 526, Lucas State Office Building, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

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

This amendment is intended to implement Iowa Code chapters 21, 147, 154C and 272C.

The following amendment is proposed.

Amend subrule 283.2(11) as follows:

283.2(11) Conviction of a ~~felony~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee’s ability to practice ~~social work~~ within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

ARC 9610B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby gives Notice of Intended Action to amend Chapter 28, “Plumbing and Mechanical Systems Board—Licensure Fees,” Iowa Administrative Code.

The purpose of these proposed amendments is to align the rules in Chapter 28 with the definitions and requirements contained in 2011 Iowa Acts, House File 392. These amendments describe the fees for new licenses, reciprocal licenses, and renewal licenses for those persons working in the plumbing, HVAC, refrigeration, and hydronics trades. In addition, late renewal fees are addressed. An annual review of the fee schedule is also included.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 10, 2011. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-4529 or by E-mail to cindy.houlson@idph.iowa.gov.

There will be one public hearing held through the Iowa Communications Network (ICN) on August 10, 2011, from 11 a.m. to 1 p.m. at the locations listed below, at which time persons may present their views either orally or in writing.

Department of Public Health Lucas State Office Building 321 E. 12th Street Des Moines, Iowa 50319 Room Location: Sixth Floor	Fort Dodge National Guard Armory 1659 Nelson Avenue Fort Dodge, Iowa 50501 Room Location: NE corner of building
Mississippi Bend Area Education Agency 9 729 21st Street Bettendorf, Iowa 52722 Room Location: Louisa Room	University of Iowa – 1 At the end of North Madison Street Iowa City, Iowa 52242 Room Location: 103
Burlington National Guard Armory 2500 Summer Street Burlington, Iowa 52601	Mason City National Guard Armory 1160 19th Street, SW Mason City, Iowa 50401
Department of Human Services 417 E. Kanesville Boulevard Council Bluffs, Iowa 51503	Ottumwa National Guard Armory 2858 N. Court Road Ottumwa, Iowa 52501
Dubuque National Guard Armory 195 Radford Road Dubuque, Iowa 52002 Room Location: ICN Classroom	Department of Human Services Pinecrest Office Building 1407 Independence Avenue Waterloo, Iowa 50703

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9603B**. The content of that submission is incorporated by reference.

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

These amendments are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

ARC 9612B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby gives Notice of Intended Action to amend Chapter 29, “Plumbing and Mechanical Systems Board—Application, Licensure, and Examination,” Iowa Administrative Code.

The purpose of these proposed amendments is to align the rules in Chapter 29 with the definitions and requirements contained in 2011 Iowa Acts, House File 392, as well as to make clarifications needed for certain parts of the rules. These amendments redefine “refrigeration,” “HVAC,” and “hydronic,” which

PUBLIC HEALTH DEPARTMENT[641](cont'd)

affect the types of applicable licenses for which individuals will need to apply. The amendments extend the licensing period to three years for all licenses. The amendments also allow a candidate who passes an examination two years to apply for the applicable license. The amendments update guidelines for lapsed licenses and include a 30-day grace period before penalties are imposed. In addition, a waiver from examination has been provided for individuals who were in military service during the original waiver period.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 10, 2011. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-4529 or by E-mail to cindy.houlson@idph.iowa.gov.

There will be one public hearing held through the Iowa Communications Network (ICN), on August 10, 2011, from 11 a.m. to 1 p.m. at the locations listed below, at which time persons may present their views either orally or in writing.

Department of Public Health Lucas State Office Building 321 E. 12th Street Des Moines, Iowa 50319 Room Location: Sixth Floor	Fort Dodge National Guard Armory 1659 Nelson Avenue Fort Dodge, Iowa 50501 Room Location: NE corner of building
Mississippi Bend Area Education Agency 9 729 21st Street Bettendorf, Iowa 52722 Room Location: Louisa Room	University of Iowa – 1 At the end of North Madison Street Iowa City, Iowa 52242 Room Location: 103
Burlington National Guard Armory 2500 Summer Street Burlington, Iowa 52601	Mason City National Guard Armory 1160 19th Street, SW Mason City, Iowa 50401
Department of Human Services 417 E. Kaneshville Boulevard Council Bluffs, Iowa 51503	Ottumwa National Guard Armory 2858 N. Court Road Ottumwa, Iowa 52501
Dubuque National Guard Armory 195 Radford Road Dubuque, Iowa 52002 Room Location: ICN Classroom	Department of Human Services Pinecrest Office Building 1407 Independence Avenue Waterloo, Iowa 50703

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9604B**. The content of that submission is incorporated by reference.

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

These amendments are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

ARC 9613B**PUBLIC HEALTH DEPARTMENT[641]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby gives Notice of Intended Action to amend Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

The purpose of these proposed amendments is to align the rules in Chapter 30 with the definitions and requirements contained in 2011 Iowa Acts, House File 392. These amendments describe the standards governing the criteria for continuing education activities; the standards governing approval for instructors; the requirements for specialty licenses; and the grounds for exempting continuing education requirements.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before August 10, 2011. Such written comments should be directed to Cindy Houlson, Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319. Comments may be sent by fax to (515)281-6114 or by E-mail to cindy.houlson@idph.iowa.gov.

There will be one public hearing held through the Iowa Communications Network (ICN), on August 10, 2011, from 11 a.m. to 1 p.m. at the locations listed below, at which time persons may present their views either orally or in writing.

Department of Public Health
Lucas State Office Building
321 E. 12th Street
Des Moines, Iowa 50319
Room Location: Sixth Floor

Mississippi Bend Area Education Agency 9
729 21st Street
Bettendorf, Iowa 52722
Room Location: Louisa Room

Burlington National Guard Armory
2500 Summer Street
Burlington, Iowa 52601

Department of Human Services
417 E. Kanesville Boulevard
Council Bluffs, Iowa 51503

Dubuque National Guard Armory
195 Radford Road
Dubuque, Iowa 52002
Room Location: ICN Classroom

Fort Dodge National Guard Armory
1659 Nelson Avenue
Fort Dodge, Iowa 50501
Room Location: NE corner of building

University of Iowa – 1
At the end of North Madison Street
Iowa City, Iowa 52242
Room Location: 103

Mason City National Guard Armory
1160 19th Street, SW
Mason City, Iowa 50401

Ottumwa National Guard Armory
2858 N. Court Road
Ottumwa, Iowa 52501

Department of Human Services
Pinecrest Office Building
1407 Independence Avenue
Waterloo, Iowa 50703

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

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9605B**. The content of that submission is incorporated by reference.

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

PUBLIC HEALTH DEPARTMENT[641](cont'd)

These amendments are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

ARC 9597B

REGENTS BOARD[681]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 3, “Personnel Administration,” Iowa Administrative Code.

The proposed amendments make changes to rules governing the Regent Merit System. The amendment in Item 1 corrects an Iowa Code citation. The amendment in Item 2 brings the subrule governing reduction in force into compliance with Iowa Code section 8A.402(2)“g”(1)(j) as well as with the rules of the Department of Administrative Services. Iowa Code section 8A.402(2)“g” was amended with the passage of 2010 Iowa Acts, Senate File 2088, the state government reorganization bill. The amendment in Item 3 clarifies the procedures for permanent employees who have exhausted all accumulated sick leave and vacation time and request to return to work upon receiving a medical release. The amendment in Item 4 brings the rule governing the use of sick leave by an employee to care for an ill or injured family member into compliance with the rules of the Department of Administrative Services as well as making the rule similar to the American Federation of State, County and Municipal Employees (AFSCME) collective bargaining agreement.

Any interested person may make written comments on these amendments on or before August 2, 2011, addressed to Tim Cook, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6421; or E-mail timcook@iastate.edu.

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

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

These amendments are intended to implement Iowa Code sections 8A.402(2)“g” and 262.9(3).

The following amendments are proposed.

ITEM 1. Amend rule 681—3.2(8A) as follows:

681—3.2(8A) Covered employees. All employees of the board of regents, except those exempted by Iowa Code Supplement section ~~8A.412(3)~~ 8A.412(5), will be covered under the rules of this system.

ITEM 2. Amend subrule 3.104(4) as follows:

3.104(4) Reduction in force.

a. Nothing herein shall be construed as a guarantee of hours of work per day or per work period. An institution may lay off an employee when it deems necessary because of shortage of funds or work, a material change in duties or organization or abolishment of one or more positions.

b. Reduction in force will be accomplished in a systematic manner in accordance with these rules; however, the layoff provisions established in this subrule shall not apply to:

- (1) Temporary layoffs of less than 20 workdays or 160 hours of work per calendar year;
- (2) Interruptions in the employment of school term employees during breaks in the academic year, during the summer, or during other seasonal interruptions that are a condition of employment, with the prior approval of the resident director;
- (3) The promotion or reclassification of an employee to a class in the same or a higher pay grade;

REGENTS BOARD[681](cont'd)

(4) The reclassification of an employee's position to a class in a lower pay grade that results from the correction of a classification error, the implementation of a class or series revision, changes in the duties of the position, or a reorganization that does not result in fewer total positions in the unit that is reorganized;

(5) A change in the classification of an employee's position or the appointment of an employee to a vacant position in a class in a lower pay grade resulting from a disciplinary or voluntary demotion; and

(6) The transfer or reassignment of an employee to another position in the same class or to a class in the same pay grade.

c. The individual whose position is eliminated or reduced in hours will be reassigned to a vacant position in the same classification provided the individual can perform the essential functions of the position and possesses any required special qualifications. If there is no vacant position to which the individual can be reassigned, the individual(s) may request and accept layoff with reemployment rights as provided in 3.104(4) "~~j.~~" "o." If an individual(s) directly affected does not request layoff with reemployment rights, the reduction in force procedures ~~which follow in this subrule~~ shall be implemented. ~~Reduction in force will be accomplished in a systematic manner in accordance with these rules; however, the layoff rules established in this subrule shall not apply to temporary layoffs of less than 20 workdays or 160 hours of work per calendar year:~~

~~a.~~ d. Reduction in force will be made by class.

~~b.~~ e. Reduction in force may be made by organizational unit within an institution or institutionwide, as designated by the institution, provided such designation is reported to the merit system director before the effective date of the reduction.

~~c.~~ f. The order of reduction in force will be by type of appointment as follows: temporary, trainee, initial probationary, permanent.

~~d.~~ g. Each permanent employee affected by a reduction in force will be notified in writing of the layoff and the reasons for it at least 20 working days prior to the effective date of the layoff unless budgetary limitations require a lesser period of notice.

~~e.~~ h. There will be competition among all employees in the class affected by the layoff based on a retention points system that will consist of points for length of service and performance evaluation of all employees in the class within the organizational unit or units affected. Retention points will be calculated as follows:

(1) Length of service credit will be allowed at the rate of one point for each month of service. Any period of 15 calendar days of service in a month will be considered a full month. For the purpose of computing length of service credits, the institution will include all ~~continuous~~ periods of regular merit employment during periods of continuous regular appointments with the institution between the date of the original appointment and the date of the layoff or as provided otherwise by law. Periods of leave without pay exceeding 30 days will not be counted.

(2) Performance evaluation credit will be allowed at the rate of one point for each month of satisfactory service. No credit will be allowed for service rated less than satisfactory. If there is no record of performance evaluation for a specific time period, it shall be presumed that the employee's performance is satisfactory.

(3) Reduction in force retention points will be the total of length of service and performance evaluation.

~~f.~~ i. Employees will be placed on the layoff list beginning with the employee with the greatest number of retention points at top. Layoffs will be made from the list in reverse order unless the employee with the least retention points has special skills and abilities required to perform in the position currently occupied. Employees with greater retention points who must vacate their positions must possess the special skills and abilities required for that position and meet any job-related selective certification required for that position. Copies of the computation of retention points will be made available to affected employees. One copy will be retained by the resident director and one copy will be forwarded to the merit system director at least ten days prior to the effective date of the layoff.

~~g.~~ j. When two or more employees have the same total of retention points, the order of termination will be determined by giving preference for retention to the employee with the longest time in the class.

REGENTS BOARD[681](cont'd)

~~h. k.~~ The reduction in force plan approved by the merit system director will be made available by the resident director so that all employees will have access to it.

~~i. l.~~ An affected employee may appeal a reduction in force by filing, within five days after notification as provided in ~~paragraph "d" of this subrule, 3.104(4)"g,"~~ a written grievance with the resident director (at Step 3 of the grievance procedure provided in ~~681—3.129(8A)~~ or at a comparable step of a procedure approved under 3.129(1)). If not satisfied with the decision rendered at that step, the ~~employees~~ employee may pursue ~~their~~ an appeal in accordance with the grievance procedure.

~~m.~~ A supervisory employee, defined as a public employee who is not a member of a collective bargaining unit and who has authority, in the interest of a public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees, to direct such public employees, or to adjust the grievances of such public employees, or to effectively recommend such action, may not replace or bump a junior employee not being laid off. For purposes of this subrule, "junior employee" means an employee with less seniority or fewer retention points than a supervisory employee.

~~j. n.~~ A permanent employee in a nonsupervisory class in which layoffs are to be effected may, in lieu of layoff, elect voluntary demotion to a position in the next lower nonsupervisory class in the same series utilized at the institution or, in the absence of a lower nonsupervisory class in the same series, to a nonsupervisory class which the employee has formerly occupied while in the continuous employment of the institution. The employee must possess any special qualifications required and have the ability to perform the essential functions of the position. Such demotion or the occupying of a formerly held nonsupervisory class will not be permitted if the result thereof would be to cause the layoff of a permanent employee with a greater total of retention points. To exercise the right of voluntary demotion or to occupy a formerly held nonsupervisory classification in lieu of layoff, the employee must notify the resident director in writing of such election not later than five calendar days after receiving notice of layoff. Any permanent employee displaced under these provisions will have the right of election as provided herein.

~~Employees who are laid off or who accept voluntary demotion in a series or assignment to a previously held class in lieu of layoff will, at their request, have their names placed on the reemployment eligibility list for the class from which they were laid off for a period of up to two years from the date of layoff.~~

o. Employees who are laid off or who accept voluntary demotion in a series or assignment to a previously held class in lieu of layoff will, at their request, have their names placed on the reemployment eligibility list for the class from which they were laid off, and a lower class(es) in the same series from which they were laid off, and a class(es) formerly occupied in accordance with 681—3.67(8A) to 681—3.70(8A) for a period of up to two years from the date of layoff. If reemployment occurs within two years of separation due to reduction in force, prior service credit shall be restored. Acceptance of reemployment in a lower class in the same series from which the employee was laid off or in a previously held class will not affect the employee's standing on the reemployment list for the class that from which the employee formerly occupied was laid off. After two years on the reemployment eligibility list, the employee's name shall be removed.

ITEM 3. Amend rule 681—3.143(8A) as follows:

681—3.143(8A) Sick leave. Permanent and probationary employees will accrue sick leave as provided by law and will be entitled to such leave on presentation of satisfactory evidence. Permanent part-time employees will accrue sick leave in an amount equivalent to their fractional employment, and no employees will be granted sick leave in excess of their accumulation.

An employee who is transferred, promoted or demoted from one position to another position under this system will not lose any accumulated sick leave as a result thereof.

~~Permanent employees~~ A permanent employee who have has recovered after exhausting all accumulated sick leave and vacation time and have has a medical release to return to work will, at their the employee's request, be placed on the reemployment lists list for the class they the employee previously occupied and on reemployment lists for lower level classes for which the employee is qualified in accordance with 681—3.67(8A) to 681—3.70(8A) for a period of up to two years from

REGENTS BOARD[681](cont'd)

the date the employee was released to return to work. Such employee acceptance of reemployment in a lower class will not affect the employee's standing on the reemployment list for the class that the employee formerly occupied. If reemployment occurs within two years of an employee's release to return to work following a medically related disability, prior service credit shall be restored. After two years on the reemployment eligibility list, the employee's name shall be removed.

ITEM 4. Amend rule 681—3.148(8A) as follows:

681—3.148(8A) Emergency Family care and funeral leave. An employing department will, when satisfied by evidence presented, grant an employee time off with pay:

1. Not to exceed three days for each occurrence in the case of death in the employee's immediate family;

2. Not to exceed one day for each occurrence for service as a pallbearer at the funeral of a person not a member of the employee's immediate family; and

3. Not to exceed ~~five days~~ 40 hours a year for the ~~temporary emergency~~ care of or necessary attention of ill or injured members of the employee's immediate family ~~for the time necessary to permit the employee to make other arrangements~~. Employees may carry over up to 40 hours of unused emergency family care leave to the next year, for a maximum utilization of 80 hours in the next year.

All such time off will be charged to the employee's sick leave and will not be granted in excess of the employee's accrued leave. For the purpose of this rule, "immediate family" is defined as the employee's spouse, children, grandchildren, foster children, stepchildren, legal wards, parents, grandparents, foster parents, stepparents, brothers, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, stepsisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives of the employee's spouse, and other persons who are members of the employee's household.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph "a," the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

July 1, 2010 — July 31, 2010	5.50%
August 1, 2010 — August 31, 2010	5.25%
September 1, 2010 — September 30, 2010	5.00%
October 1, 2010 — October 31, 2010	4.75%
November 1, 2010 — November 30, 2010	4.75%
December 1, 2010 — December 31, 2010	4.50%
January 1, 2011 — January 31, 2011	4.75%
February 1, 2011 — February 28, 2011	5.25%
March 1, 2011 — March 31, 2011	5.50%
April 1, 2011 — April 30, 2011	5.50%
May 1, 2011 — May 31, 2011	5.50%
June 1, 2011 — June 30, 2011	5.50%
July 1, 2011 — July 31, 2011	5.25%

ARC 9609B**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 and 476.1, Iowa Code chapter 476C, and 2011 Iowa Acts, House File 672, the Utilities Board (Board) gives notice that on June 22, 2011, the Board issued an order in Docket No. RMU-2011-0003, In re: Renewable Energy Tax Credits, “Order Commencing Rule Making.” The Board is noticing for public comment proposed amendments to 199 IAC 15.19 and 15.21. The proposed amendments reflect legislative changes to Iowa Code chapter 476C contained in 2011 Iowa Acts, House File 672, which was signed by the Governor on May 26, 2011.

Several proposed changes are being made to 199 IAC 15.19 and 15.21. These proposed changes to the rules implementing Iowa Code chapter 476C include the allowance of tax credits for renewable energy produced for on-site consumption (with a minimum facility capacity size), extension of the program’s overall facility in-service deadline by three years, and allowing applicants to apply for successive 12-month in-service time limit extensions. 2011 Iowa Acts, House File 672, also made changes to both Iowa Code chapters 476B and 476C that do not require rule changes, including reducing the total eligible capacity for Iowa Code chapter 476B wind facilities from 150 megawatts (MW) to 50 MW and increasing the total eligible capacity for Iowa Code chapter 476C wind facilities from 330 MW to 363 MW; there is also an increase in total eligible capacity for Iowa Code chapter 476C nonwind facilities from 20 MW to 53 MW, with 10 MW reserved for “renewable energy facilities incorporated within or associated with an ethanol cogeneration plant engaged in the sale of ethanol.” In addition, there is a maximum facility capacity size for new Iowa Code chapter 476C nonwind facilities. None of the changes to Iowa Code chapter 476B contained in 2011 Iowa Acts, House File 672, require amendments to the Board’s rules.

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 August 2, 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.

A public hearing to receive comments on the proposed amendments will be held at 10 a.m. on August 23, 2011, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7334 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3 is applicable to these amendments.

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

These amendments are intended to implement Iowa Code section 476.1 and chapter 476C and 2011 Iowa Acts, House File 672.

The following amendments are proposed.

UTILITIES DIVISION[199](cont'd)

ITEM 1. Amend paragraphs **15.19(1)“f”** to **“h”** as follows:

f. A description of the facility, including at a minimum the following information:

(1) Type of facility (that is, a wind energy conversion facility, biogas recovery facility, biomass conversion facility, methane gas recovery facility, solar energy conversion facility, or refuse conversion facility, as defined in Iowa Code Supplement section 476C.1);

(2) Total nameplate generating capacity rating, plus maximum hourly output capability for any energy production capacity equivalent as defined in Iowa Code Supplement section 476C.1. For applications filed on or after July 1, 2011, the facility's combined nameplate capacity or energy production capacity equivalent must be no less than three-fourths of a megawatt if all or part of the facility's renewable energy production is used for the owners' on-site consumption, and no more than five megawatts if the facility is other than a wind energy conversion facility;

(3) A description of the location of the facility in Iowa, including an address or other geographic identifier;

(4) The date the facility is expected to be placed in service; that is, placed in service on or after July 1, 2005, but before January 1, ~~2012~~ 2015, for eligibility under Iowa Code Supplement chapter 476C; and

(5) For eligibility under Iowa Code Supplement chapter 476C, demonstration that the facility's combined MW nameplate generating capacity and maximum hourly output capability of energy production capacity equivalent (as defined in Iowa Code Supplement section 476C.1(7)), divided by the number of separate owners meeting the requirements of Iowa Code Supplement chapter 476C, equals no more than 2.5 MW of capacity per eligible owner.

g. A signed statement from the owners attesting that the owners intend to either sell all the renewable energy produced by the facility, consume all the renewable energy on site, or a combination of both. For purposes of this statement, renewable energy consumed on site means any renewable energy produced by the facility and not sold.

~~*g.*~~ *h.* A If the owners intend to sell renewable energy produced by the facility, a copy of the power purchase agreement or other agreement to purchase electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, which shall designate either the producer or the purchaser as eligible to apply for the renewable energy tax credit. If the power purchase agreement or other agreement has not yet been finalized and executed, the board will accept a binding statement from the applicant that designates which party will be eligible to apply for the renewable energy tax credit; that designation shall not be subject to change.

~~*h.*~~ *i.* A statement indicating the type of tax credit being sought; that is, indicating that the applicant is applying for tax credits pursuant to Iowa Code Supplement chapter 476C (1.5 cents per kWh, wind and other renewable energy tax credits).

ITEM 2. Amend subrule 15.19(4) as follows:

15.19(4) Loss of eligibility status.

a. Within 30 months following board approval of eligibility, the applicant shall file information demonstrating that the eligible facility is operational and producing usable energy. If the board determines that the eligible facility was not operational within 30 months of board approval, the facility will lose eligibility status.

b. ~~However, if~~ If the facility is a wind energy conversion facility and is not operational within 18 months due to the unavailability of necessary equipment, the applicant may apply for a 12-month extension of the 30-month limit, attesting to the unavailability of necessary equipment. After granting the 12-month extension, if the board determines that the facility was not operational within 42 months of board approval, the facility will lose eligibility status.

c. Prior to expiration of the time periods specified in paragraphs 15.19(4)“a” and “b,” the applicant may apply for a further 12-month extension if the facility is still expected to become operational. Extensions may be renewed for succeeding 12-month periods if the applicant applies for the extension prior to expiration of the current extension period. If the applicant does not apply for further extension, the facility will lose eligibility status.

UTILITIES DIVISION[199](cont'd)

d. If the owners of a facility discontinue efforts to achieve operational status, the owners shall notify the board. Upon receipt of such notification, the facility will lose eligibility status.

e. If the facility loses eligibility status, the facility applicant may reapply to the board for new eligibility.

ITEM 3. Amend rule 199—15.21(476C), introductory paragraph, as follows:

199—15.21(476C) Applications for renewable energy tax credits under Iowa Code chapter 476C. The renewable energy tax credits equal 1.5 cents per kilowatt-hour of electricity, or 44 cents per 1,000 standard cubic feet of hydrogen fuel, or \$4.50 per 1 million British thermal units of methane gas or other biogas used to generate electricity, or \$4.50 per 1 million British thermal units of heat for a commercial purpose, generated by ~~and purchased from~~ eligible renewable energy facilities under 199—15.19(476C), which is sold or used for on-site consumption by the owners, for tax years beginning on or after July 1, 2006. ~~Either~~ For renewable energy that is sold, either the owners of an eligible facility or a designated purchaser of renewable energy from the facility may apply for renewable energy tax credits, for up to ten tax years following the date the facility is placed in service. For renewable energy used for on-site consumption, the owners of an eligible facility may apply for renewable energy tax credits for up to ten tax years following the date the facility is placed in service. Renewable energy tax credits will not be issued for renewable energy ~~purchased~~ sold or used for on-site consumption after December 31, ~~2021~~ 2024. For purposes of this rule, renewable energy used for on-site consumption means any renewable energy produced by the facility and not sold.

ITEM 4. Amend paragraph **15.21(1)“a”** as follows:

a. Either the facility owners or the purchaser of renewable energy shall be eligible to apply for the tax credits related to renewable energy that is sold, as designated under 199—paragraph 15.19(1)“g h.” Only facility owners shall be eligible to apply for tax credits related to renewable energy used for on-site consumption. If a facility is jointly owned, then owners applying for the tax credits must file their application jointly. For each application, an original and two copies must be filed according to the following format, including a cover letter that cites this rule (199—15.21(476C)), and the following 12 information items separately identified by item number:

(1) A copy of the original application for facility eligibility under 199—15.19(476C), plus any subsequent amendments to the application.

(2) A copy of the board’s determination approving the facility as eligible for tax credits under 199—15.19(476C).

(3) A statement attesting that the owners have not received wind energy tax credits for the facility under 199—15.20(476B).

(4) A For any renewable energy sold, a copy of the power purchase agreement or other agreement to purchase from the facility electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose. The agreement shall designate whether the producer or purchaser of renewable energy will be eligible to apply for the tax credits and shall be consistent with the designation originally filed under 199—paragraph 15.19(1)“g h.”

(5) A For any renewable energy sold, the owners must provide a statement attesting that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and sold to an unrelated purchaser. For purposes of the renewable energy tax credits, persons are related to each other if either person owns an 80 percent or more equity interest in the other person. For any renewable energy used for on-site consumption, the owners must provide a signed statement attesting under penalty of perjury that the electricity, hydrogen fuel, methane or other biogas, or heat for a commercial purpose, for which tax credits are sought, has been generated by the eligible facility and not sold.

(6) The date that the eligible facility was placed in service (that is, between July 1, 2005, and January 1, ~~2012~~ 2015).

UTILITIES DIVISION[199](cont'd)

(7) The total number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year.

(8) ~~Invoices~~ For any renewable energy sold, invoices or other information that documents the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility and sold to an unrelated purchaser during the tax year. For any renewable energy used for on-site consumption, the number of kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by the eligible facility during the tax year and not sold.

(9) to (12) No change.

ITEM 5. Amend subparagraph **15.21(1)“b”(3)** as follows:

(3) Whether the reported kilowatt-hours of electricity, standard cubic feet of hydrogen fuel, British thermal units of methane gas or other biogas used to generate electricity, or British thermal units of heat for a commercial purpose generated by ~~and purchased from~~ the facility ~~and sold or used by the owners for on-site consumption~~ during the tax year seem accurate and eligible for renewable energy tax credits.

ARC 9614B

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, 476.1A, and 476.2, the Utilities Board (Board) gives notice that on June 22, 2011, the Board issued an order in Docket No. RMU-2011-0004, In re: Amendment to Outage Notification Requirements for Electric Utilities [199 IAC 20.19], “Order Commencing Rule Making.” Under current rules, an electric utility is required to notify the Board when it becomes apparent that a service outage will cause customers to be without electric service for more than two hours and the outage meets the other requirements in rule 199—20.19(476,478). If adopted, the proposed amendment would change the projected length of the outage to six hours before Board notification is required.

The outage notification requirements have been established to provide the Board with timely information on loss of electric service to customers that may be useful to emergency management agencies in providing for the welfare of Iowa citizens. The Board is proposing the change because of experience with the current requirement for reporting anticipated loss of service of more than two hours, which has demonstrated that many reports are received that do not need to be forwarded to emergency management agencies. After consultation with some utilities, the Board has determined that changing the requirement to notification when loss of service is expected to last for more than six hours will eliminate the less significant outage reports and will still allow the Board to coordinate with emergency management agencies for those outages that may require additional action.

The Board is also proposing to change the phrase “when it becomes apparent” to “when it is projected” to ensure that utility personnel understand that the Board should be notified as soon as utility personnel have sufficient information to project that an outage will last longer than six hours. Currently, some utilities wait to notify the Board until just before the two-hour time limit even if they were reasonably certain the outage would be reportable shortly after the outage began.

The order commencing rule making issued by the Board can be found on the Board’s Web site, www.iub.iowa.gov.

UTILITIES DIVISION[199](cont'd)

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 amendment. The statement must be filed on or before August 2, 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 must 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, Iowa 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 may determine that an oral presentation should be scheduled.

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

This amendment is intended to implement Iowa Code sections 476.1A, 476.2 and 17A.4.

The following amendment is proposed.

Amend subrule 20.19(1) as follows:

20.19(1) Notification. The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it ~~becomes apparent~~ is projected that an outage may result in a loss of service for more than ~~two~~ six hours and the outage meets one of the following criteria:

a. For all utilities, loss of service for more than ~~two~~ six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

b. For utilities with 50,000 or more customers, loss of service for more than ~~two~~ six hours to 20 percent of the customers in a utility’s established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

c. For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than ~~two~~ six hours to 25 percent or more of the utility’s customers;

d. No change.

e. Any other outage considered significant by the electric utility. This includes loss of service for more than ~~two~~ six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1)“a” through “d.”

ARC 9608B

HISTORICAL DIVISION[223]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 303.1A, the Director of the Department of Cultural Affairs hereby amends Chapter 48, “Historic Preservation and Cultural and Entertainment District Tax Credits,” Iowa Administrative Code.

The amendments to Chapter 48 clarify qualified rehabilitation costs, rehabilitation period, and substantial rehabilitation in accordance with the provisions of 2011 Iowa Acts, Senate File 521, amending Iowa Code chapter 404A.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are impracticable because of the immediate need for the amendments to implement the provisions of 2011 Iowa Acts, Senate File 521. The application filing window begins July 1. The standard rule-making process would delay this requirement by approximately six months, making it more difficult for projects to meet their project commencement requirements, as stipulated by the Iowa Code.

The Department also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of these amendments should be waived and these amendments should be made effective on June 22, 2011, as they confer a benefit on constituents.

These amendments are also published herein under Notice of Intended Action as **ARC 9607B** to allow for public comment. This emergency filing permits the Department to implement the new provisions of the law.

The rule making will have no fiscal impact.

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

These amendments are intended to implement Iowa Code chapter 303 and chapter 404A as amended by 2011 Iowa Acts, Senate File 521.

These amendments became effective June 22, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 223—48.1(303,404A) as follows:

223—48.1(303,404A) Purpose. A historic preservation and cultural and entertainment district tax credit (hereafter referred to as historic tax credit) for the substantial rehabilitation of eligible commercial property, residential property and barns located in this state is granted to approved projects, subject to availability of the credit, to apply against the income tax imposed under Iowa Code chapter 422, division II, III, or V, or Iowa Code chapter 432. Historic tax credits are restricted to rehabilitation projects for eligible properties in Iowa. Rehabilitation projects for eligible properties must be conducted in accordance with the federal Standards for Rehabilitation (36 CFR Part 67.7) as described in the U.S. Secretary of the Interior’s Standards for the Treatment of Historic Properties (hereafter referred to as Standards).

ITEM 2. Amend rule 223—48.2(303,404A), definitions of “New permanent jobs” and “Placed in service,” as follows:

“*New permanent jobs*” means the number of new jobs that exist at an eligible property within two years after of the date on which the tax credit certificate is issued. New permanent jobs are calculated as those over and above the employment base.

“*Placed in service*” means ~~the date on which a building receives a certificate of occupancy from the applicable city or county official or the date on which the building is placed in a condition or state of readiness and availability for a specifically assigned function, whether in a trade or business, in the production of income, in a tax-exempt activity, or in a personal activity~~ the same as used in Section 47 of the Internal Revenue Code.

HISTORICAL DIVISION[223](cont'd)

ITEM 3. Rescind the definition of “Qualified rehabilitation costs” in rule **223—48.2(303,404A)**.

ITEM 4. Adopt the following **new** definitions in rule **223—48.2(303,404A)**:

“*Rehabilitation period*” means the period of time during which an eligible property is rehabilitated commencing from the date on which the first qualified rehabilitation cost is incurred and ending with the end of the taxable year in which the property is placed in service.

“*Substantial rehabilitation*” means qualified rehabilitation costs that meet or exceed the following: (1) in the case of commercial property, costs totaling at least 50 percent of the assessed value of the property, excluding the land, prior to the rehabilitation; or (2) in the case of residential property or barns, costs totaling at least \$25,000 or 25 percent of the assessed value, excluding the land, prior to rehabilitation, whichever is less.

ITEM 5. Rescind rule 223—48.3(303,404A) and adopt the following **new** rule in lieu thereof:

223—48.3(303,404A) Eligible property. “Eligible property” means property for which a taxpayer may receive the historic preservation and cultural and entertainment district tax credit computed under this chapter and includes all of the following:

1. Property listed on the National Register of Historic Places or eligible for such listing.
2. Property designated as of historic significance to a district listed in the National Register of Historic Places or eligible for such designation.
3. Property or district designated a local landmark by a city or county ordinance.
4. A barn constructed prior to 1937.

ITEM 6. Rescind rule 223—48.4(303,404A) and adopt the following **new** rule in lieu thereof:

223—48.4(303,404A) Qualified and nonqualified rehabilitation costs.

48.4(1) “Qualified rehabilitation costs” means expenditures made for the rehabilitation of eligible property and includes qualified rehabilitation expenditures as defined in Section 47 of the Internal Revenue Code.

a. Qualified rehabilitation costs include amounts if they are properly includable in computing the basis for tax purposes of the eligible property.

b. Amounts treated as an expense and deducted in the tax year in which they are paid or incurred and amounts that are otherwise not added to the basis for tax purposes of the eligible property are not qualified rehabilitation costs.

c. Amounts incurred for architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees, and other construction-related costs are qualified rehabilitation costs to the extent they are added to the basis for tax purposes of the eligible property.

d. Costs of sidewalks, parking lots, and landscaping do not constitute qualified rehabilitation costs.

48.4(2) Any submission of a part three of the application with qualified rehabilitation costs of more than \$500,000 shall include a certified statement by a certified public accountant verifying that the expenses statement includes only qualified rehabilitation costs incurred in the time period established in subrule 48.5(2).

ITEM 7. Rescind rule 223—48.5(303,404A) and adopt the following **new** rule in lieu thereof:

223—48.5(303,404A) Rehabilitation cost limits and amount of credit.

48.5(1) The amount of the tax credit equals 25 percent of the qualified rehabilitation costs incurred for the substantial rehabilitation of eligible property, subject to the provisions in subrule 48.6(8). Rehabilitation projects that do not meet the definition of a substantial rehabilitation are not eligible to receive a historic tax credit.

48.5(2) Computing the tax credit. SHPO shall compute the tax credit based on the final qualified rehabilitation costs documented on part three of the application and shall issue a tax credit certificate pursuant to subrule 48.6(8).

a. For projects for which part two of the application was approved before July 1, 2009: The only costs which may be included on part three of the application are the qualified rehabilitation costs incurred

HISTORICAL DIVISION[223](cont'd)

between the period ending on the project completion date and beginning on the date two years prior to the project completion date, provided that any qualified rehabilitation costs incurred prior to the date on which part two of the application was approved must be qualified rehabilitation expenditures under the federal rehabilitation credit in Section 47 of the Internal Revenue Code.

b. For projects for which part two of the application was approved on or after July 1, 2009: The only costs which may be included on part three of the application are those qualified rehabilitation costs incurred for the rehabilitation of eligible property during the rehabilitation period, provided that any costs incurred prior to the date on which part two of the application was approved must be qualified rehabilitation expenditures as defined in Section 47(c)(2) of the Internal Revenue Code.

48.5(3) For residential or mixed-use property, the amount of rehabilitation costs shall not exceed \$100,000 per residential unit excluding any qualified rehabilitation costs for the public or commercial space and excluding any qualified rehabilitation costs for the weather surfaces of the building envelope including exterior windows and doors. This subrule does not apply to projects for which part two of the application was approved and tax credits were reserved on or after July 1, 2009.

48.5(4) Questions concerning specific tax consequences or interpretation of the state tax code must be addressed to the department of revenue.

48.5(5) Applicants may develop subsequent projects for qualified rehabilitation costs not previously included in a tax credit application for a building which had tax credits previously reserved or awarded. Each subsequent application shall meet eligibility requirements and shall be reviewed individually and independently.

48.5(6) For applicants receiving credits through the small projects fund, the cumulative total for multiple applications for a single building shall not exceed \$500,000 in qualified rehabilitation costs. The SHPO will not accept an application for a building previously receiving credits through the small projects fund that causes the cumulative total to exceed \$500,000. The applicant may either:

a. Apply for the cumulative total of qualified rehabilitation costs under any other fund for which the project is eligible. If the applicant receives a tax credit reservation from another fund, the applicant shall abandon the entirety of the applicant's tax credit reservation in the small projects fund in accordance with rule 223—48.12(303,404A); or

b. Apply for only the qualified rehabilitation costs up to a cumulative total of \$500,000. If the applicant has already received and claimed a tax credit certificate on the applicant's annual tax return, the applicant shall select this option.

ITEM 8. Amend rule 223—48.6(303,404A) as follows:

223—48.6(303,404A) Application and review process.

48.6(1) All applications for historic tax credits shall be on the current state fiscal year's forms and in accordance with the current state fiscal year's instructions provided by the SHPO. All applications must be complete and include all required supporting documentation before being considered for review and before beginning the review periods outlined in subrule 48.6(3). Application forms are available from the Tax Incentives Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319-0290. Applications may also be downloaded from the department of cultural affairs—state historical society of Iowa Web site.

a. and *b.* No change.

c. Part three of the application provides the information and documentation required to request certification of project completion and includes an economic impact questionnaire. ~~Part three of the application shall be submitted within six months of the date on which the building is placed in service or, if the project is complete, part three of the application may be submitted simultaneously with part two of the application.~~ Part three of the application must include all requested information including certification in accordance with subrule ~~48.4(6)~~ 48.4(2). SHPO staff shall notify the applicant if part three of the application is incomplete. Incomplete applications will not be processed. Incomplete applications may be subject to abandonment as outlined in rule 223—48.12(303,404A).

HISTORICAL DIVISION[223](cont'd)

(1) For projects for which part two of the application was approved and tax credits reserved before July 1, 2009, part three of the application shall be submitted within 6 months of the date on which the building is placed in service.

(2) For projects for which part two of the application was approved and tax credits reserved on or after July 1, 2009, part three of the application shall be submitted within 24 months of the date on which the rehabilitation period ends.

d. Amendments to applications. An applicant shall amend an approved part one of the application or an approved part two of the application if the property changes ownership or if the applicant's name or address changes. An applicant ~~may~~ shall amend an approved part two of the application to notify SHPO of, and to request review of, modifications to the original description of the rehabilitation project. Amendments to part two of the application shall not include modification of the rehabilitation costs estimated in the originally approved part two of the application. Amendments to part two of the application shall not result in the reservation of additional tax credits for a project. Amendments to part two will not be accepted after SHPO has approved part three of the application pursuant to subrule 48.6(8). An applicant may amend an approved part three of the application. Any amendment to part three shall meet all requirements applicable to part three. The total application processing fee charged for part three under rule 223—48.16(303,404A) is based on the final qualified rehabilitation costs as reported on the part three amendment.

e. ~~An application will not be accepted for a building placed in service more than five years before part two of the application is submitted.~~

48.6(2) and **48.6(3)** No change.

~~**48.6(4)** A part two of an application that includes the same scope of work as a rehabilitation project which qualifies for the federal rehabilitation credit under Section 47 of the Internal Revenue Code shall automatically be approved when reviewed in accordance with subrule 48.6(7) and to the extent that all historic tax credits appropriated for the fiscal year have not already been reserved.~~

48.6(4) Applicants who undertake rehabilitation projects without prior approval from the SHPO do so at their own risk.

48.6(5) Response to application parts.

a. to *c.* No change.

~~*d.* Questions concerning specific tax consequences or interpretation of the state tax code must be addressed to the department of revenue.~~

48.6(6) to **48.6(8)** No change.

48.6(9) Disaster recovery projects. An applicant may apply for the disaster recovery fund as described in subrule 48.7(3) if the project meets the following requirements:

a. The initial submittal of part two of the application shall be made no later than the first filing window (see subrule 48.8(2)) that occurs after the five-year anniversary of the disaster declaration date. ~~This time period may be waived in accordance with Iowa Code section 17A.9A. Petitions for waivers shall be directed to the Director, Department of Cultural Affairs, 600 E. Locust Street, Des Moines, Iowa 50319.~~

b. No change.

48.6(10) Projects creating new permanent jobs. An applicant may apply for the new permanent jobs fund as described in subrule 48.7(4) if the applicant meets the following requirements:

a. No change.

b. The applicant must provide information to SHPO documenting the creation of at least 500 new permanent jobs within two years of the date on which part three of the application is approved the tax credit certificate is issued. This information shall be verified by the Iowa department of economic development using the process outlined in 261—Chapter 188, Iowa Administrative Code. If the Iowa department of economic development is unable to verify the number of new permanent jobs required, tax credits claimed by the applicant will be subject to repayment to the department of revenue and unclaimed credits shall be unavailable; and

c. No change.

HISTORICAL DIVISION[223](cont'd)

ITEM 9. Amend rule 223—48.7(303,404A) as follows:

223—48.7(303,404A) Tax credit funds.

48.7(1) to 48.7(3) No change.

48.7(4) *The new permanent jobs fund.* The SHPO shall reserve 20 percent of the tax credit allocation for any tax credit year in a new permanent jobs fund for projects that involve the creation of more than 500 new permanent jobs within two years of the date on which ~~part three of the application is approved~~ the tax credit certificate is issued.

48.7(5) to 48.7(7) No change.

ITEM 10. Amend rule 223—48.8(303,404A) as follows:

223—48.8(303,404A) Sequencing of applications for review.

48.8(1) No change.

48.8(2) *Filing window.* Part two applications for state historic tax credits received during the first ten working days of the state fiscal year shall be included in a project review sequencing system to determine the order in which they will be reviewed. The filing window for applications submitted in July 2009 2011 will be extended to August ~~7, 2009~~ 5, 2011.

48.8(3) *Initial sequencing process.* An initial sorting process based on the status of the project application at the start of the state fiscal year will be used to associate applications with the appropriate initial sequencing category. Following initial sorting into a category and subcategory, each application within the assigned category and subcategory will be sequenced in accordance with subrule 48.8(4).

a. and b. No change.

c. Category C projects are comprised of an entirely new part two of a state historic tax credit application not meeting the requirements for any other category and having been received within the specified filing window. ~~Projects may consist of parts one and two of the application, parts two and three of the application with a part one having already been submitted, or parts one, two and three of the application.~~ Category C projects must be submitted during the current year's filing window and must specify a fund pursuant to subrule 48.7(6).

48.8(4) to 48.8(7) No change.

ITEM 11. Amend rule 223—48.11(303,404A) as follows:

223—48.11(303,404A) Project completion and eligible property placed in service.

48.11(1) Once a tax credit reservation is made for a project, construction must be completed and the building eligible property must be placed in service ~~within 36 months of the date on which part two of the application is approved.~~ For projects with tax credits reserved prior to July 1, 2009, construction must be completed and the building must be placed in service on or before June 30, 2011. The applicant must submit part three of the application within six months of the date on which the building is placed in service regardless of the 36-month deadline, unless part three of the application is submitted simultaneously with part two: as follows:

a. For projects for which part two of the application was approved and tax credits reserved before July 1, 2009: The project shall be completed and the building shall be placed in service on or before June 30, 2011.

b. For projects for which part two of the application was approved and tax credits were reserved on or after July 1, 2009: The project shall be completed and the eligible property shall be placed in service within 60 months of the date on which part two of the application was approved.

48.11(2) In the event actual construction on a project is not completed and the building eligible property is not placed in service within the time period allowed in accordance with subrule 48.11(1), the SHPO shall recapture the tax credit reservation in accordance with the provisions of rule 223—48.12(303,404A).

HISTORICAL DIVISION[223](cont'd)

ITEM 12. Amend rule 223—48.12(303,404A) as follows:

223—48.12(303,404A) Abandonment and recapture of tax credit reservation.

48.12(1) and **48.12(2)** No change.

48.12(3) *Project abandonment at the request of an applicant.* An applicant may choose to abandon tax credits reserved in accordance with subrule 48.6(7) at any time after the date on which the tax credit was reserved. A tax credit reservation may be voluntarily abandoned for any reason, including abandonment of a reservation from the small projects fund for consideration in another fund in accordance with ~~paragraph 48.5(5)“b”~~ subrule 48.5(6) or paragraph 48.6(8)“c.” Submittal of a new application will require the submittal of a new processing fee. Processing fees for the original part two application(s) as allowed by rule 223—48.16(303,404A) will not be returned. To abandon a tax credit reservation, the applicant shall send a letter to the SHPO requesting that the tax credit project be abandoned. The SHPO shall notify the applicant by registered U.S. mail or courier that the project has been abandoned and the tax credit reservation has been recaptured. SHPO shall process the tax credit reservation in accordance with subrule 48.12(5).

48.12(4) and **48.12(5)** No change.

[Filed Emergency 6/22/11, effective 6/22/11]

[Published 7/13/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9611B

LOTTERY AUTHORITY, IOWA[531]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code chapter 99G and section 17A.3, the Iowa Lottery Authority hereby adopts new Chapter 21, “Drawings and Contests,” Iowa Administrative Code.

This amendment is necessary to implement the Iowa Lottery Authority's new enhanced VIP Club. The enhanced VIP Club provides additional value to players and is being implemented by the Lottery as part of its conversion process to a new online ticket system. More recently, the vendor for the project, MDI, indicated that it did not recommend the Lottery require players to keep their lottery tickets and turn them in after the promotions. The vendor indicated that the unique codes on each ticket would present sufficient security and proof of ownership of the ticket if the ticket numbers were entered into the promotions via the Internet. The administrative rules currently require players to present a signed ticket to a retailer or the Lottery for validation purposes. Moreover, the Lottery does not have provisions to define the contests and drawings it holds. The enhanced VIP Club began on May 16, 2011, but will begin running promotions in July for which players will not be required to keep their tickets to redeem a prize.

Pursuant to Iowa Code section 17A.4(3), the Lottery Authority Board of Directors finds that notice and public participation are impracticable and contrary to public interest because of the immediate need to implement the VIP Club promotional events to enhance the club.

The Lottery Authority Board further finds that the normal effective date of this amendment should be waived and this amendment should be made effective upon filing. The Board's finding is based upon the fact that this amendment will confer a benefit upon specific segments of the population. Specifically, the amendment will provide added value for lottery tickets while not requiring players to keep their tickets and not disenfranchising players if they misplace their tickets. If this amendment were not adopted on an emergency basis, the currently planned promotions for July would have to be canceled or postponed and advertising costs would be wasted and revenue for the state would likely be lost. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2).

The Lottery Authority Board of Directors adopted this amendment on June 20, 2011.

LOTTERY AUTHORITY, IOWA[531](cont'd)

This amendment is also published herein under Notice of Intended Action as **ARC 9618B** to allow public comment.

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

This amendment is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

This amendment became effective June 22, 2011.

The following amendment is adopted.

Adopt the following new 531—Chapter 21:

CHAPTER 21
DRAWINGS AND CONTESTS

531—21.1(99G) Authorization of drawings and contests. The lottery authority board authorizes drawings and contests that meet the criteria set forth in this chapter.

This rule is intended to implement Iowa Code section 99G.9(3).

531—21.2(99G) Definitions.

“*Contest*” means a lottery event that may or may not involve nonwinning tickets in which entries are selected as winners and prizes are valued at a total of \$5,000 or less. If an individual prize is greater than \$600 or at the lottery’s discretion, a player must fill out a claim form and the contest will have written rules informally posted at the event.

“*Drawing*” or “*second-chance drawing*” means a lottery event involving a random selection of an entry or entries for prize(s) in which entrants may either use a nonwinning Iowa lottery ticket as an entry or, at the lottery’s discretion, may enter the drawing using points earned from entering tickets through the Internet or an entry through an alternative method for which a purchase is not necessary.

“*Nonwinning ticket*” means a ticket that did not win in the original game for which it was printed.

“*Presentation*” of a drawing or contest entry, for purposes of this chapter and validation of the same, means entering the ticket into a drawing or contest through the U.S. mail or Internet, as permitted by the rules of the drawing or the description of the contest.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

531—21.3(99G) Price for drawings or contests. There shall be no cost to enter a drawing or contest beyond the original ticket price already paid. At its discretion, the lottery may designate certain drawings that may be entered with a designated number of points earned by entry of nonwinning tickets through the VIP club or by some other lottery-approved method.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

531—21.4(99G) Method of play. Contest or drawing winners may be determined from a computer-generated list of all the entries submitted during the eligibility period or by any other method approved by the lottery. The secure drawing system will generate a list of winning entry numbers based on the prize levels. Alternates will be drawn as determined by the lottery. Other methods of choosing a winning entry may be determined by the lottery and, if utilized, shall be set forth in the specific drawing rules or contest description.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

531—21.5(99G) Prizes.

21.5(1) The number and amount of prizes for a drawing or contest shall be determined by the lottery and set forth in the specific drawing rules or contest description.

21.5(2) At the lottery’s discretion, a drawing or contest may include a special prize event. The number of prizes, the amount of each prize, the dates and times of the contests or drawings, as well as the procedures for conducting elimination drawings or prize events, shall be determined by the lottery and

LOTTERY AUTHORITY, IOWA[531](cont'd)

set forth in the specific drawing rules or contest description. Finalists for prize events shall be selected in the manner stated in the specific drawing rules or contest description.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

531—21.6(99G) Disclosure of odds. Because the odds will vary based on the number of entrants in each contest or drawing, the odds will not be posted.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

531—21.7(99G) Claiming prizes. The specific drawing rules or contest description shall set forth the manner in which prizes won shall be claimed.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

531—21.8(99G) Entry validation requirements. To be a valid entry, the entry must be a legally acquired nonwinning Iowa lottery ticket identified as an entry for the particular promotion. At its discretion, the lottery may include legally obtained winning and nonwinning Iowa lottery online tickets in promotions.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

531—21.9(99G) Owner of a ticket. The lottery and its VIP club vendor, if any, shall pay prizes in an Internet-based drawing or contest only to persons who present the selected tickets by entering them into the drawing through the online entry form or other entry mechanism. Players are encouraged to sign the original ticket to prevent entry of the ticket by another party into the drawings or contests. The signature on the ticket indicates the owner of the ticket. If no signature is present on the ticket, the owner of the ticket is the possessor of the ticket. If there is a question as to the ownership of a ticket, the chief executive officer's determination as to whether and to whom a prize shall be awarded is final.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

531—21.10(99G) Official end of drawing or contest period. The chief executive officer shall announce the end of any drawing or contest period.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[Filed Emergency 6/22/11, effective 6/22/11]

[Published 7/13/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9603B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby amends Chapter 28, "Plumbing and Mechanical Systems Board—Licensure Fees," Iowa Administrative Code.

The purpose of these amendments is to align the rules in Chapter 28 with the definitions and requirements contained in 2011 Iowa Acts, House File 392. These amendments describe the fees for new licenses, reciprocal licenses, and renewal licenses for those persons working in the plumbing, HVAC, refrigeration, and hydronics trades. In addition, late renewal fees are addressed. An annual review of the fee schedule is also included.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation are impracticable because 2011 Iowa Acts, House File 392, became effective upon signing on April 28, 2011.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing

PUBLIC HEALTH DEPARTMENT[641](cont'd)

because 2011 Iowa Acts, House File 392, became effective on April 28, 2011, and the amendments confer a benefit on the public. Professional licenses are being issued under Iowa Code chapter 105, and these amendments provide the fee structure necessary for the licensees to continue to renew licenses and obtain new licenses.

The Plumbing and Mechanical Systems Board adopted these amendments on June 21, 2011.

These amendments are also published herein under Notice of Intended Action as **ARC 9610B** to allow public comment. This emergency filing permits licensees to renew licenses and obtain new licenses under the new fee structure.

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

These amendments are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

These amendments became effective on June 21, 2011.

The following amendments are adopted.

ITEM 1. Amend subrule 28.1(1) as follows:

28.1(1) License fee for:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is ~~\$100~~ 50.
- c. A master license as defined in 641—subrule 29.2(3) is ~~\$250~~ 125.
- d. A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is ~~\$250~~ 150.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.

ITEM 2. Amend subrule 28.1(2) as follows:

28.1(2) Reciprocal license fee for:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is ~~\$100~~ 50.
- c. A master license as defined in 641—subrule 29.2(3) is ~~\$250~~ 125.

ITEM 3. Amend subrule 28.1(3) as follows:

28.1(3) Renewal license fee for:

- a. An apprentice license as defined in 641—subrule 29.2(1) is \$50.
- b. A journey license as defined in 641—subrule 29.2(2) is ~~\$100~~ 50.
- c. A master license as defined in 641—subrule 29.2(3) is ~~\$250~~ 125.
- d. A medical gas pipe certificate as defined in 641—29.3(105) is \$50.
- e. An inactive license as defined in 641—subrules 29.2(5) and 29.2(6) is \$50.
- f. A contractor license as defined in 641—subrule 29.2(4) is ~~\$250~~ 150.
- g. A special restricted license as defined in 641—subrules 29.2(8), 29.2(9), 29.2(10), and 29.2(11) is \$50.

h. The renewal fee shall be waived for all licenses renewed from January 1, 2011, through December 31, 2012. However, if applicable, late fees as set forth in subrule 28.1(5) and paper application fees as set forth in subrule 28.1(10) will be applied.

ITEM 4. Amend subrule 28.1(5) as follows:

28.1(5) A late fee for failure to renew before expiration is determined as follows:

- a. A licensee who allows a license to lapse for ~~one month~~ 30 days or less may reinstate and renew the license with payment of the appropriate renewal fee and without ~~examination upon~~ payment of a ~~\$60~~ late fee and ~~appropriate renewal of license fee~~.
- b. A licensee who allows a license to lapse for more than ~~one month~~ 30 days but less than ~~two months~~ 60 days may reinstate and renew the license without examination upon payment of a \$60 late fee ~~equivalent to the appropriate license fee and the~~ appropriate renewal of license fee.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

c. A licensee who allows a license to lapse for more than ~~two months~~ 60 days is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee in order to obtain reinstatement. A licensee whose license has lapsed continues to hold the privilege of licensure in Iowa, but may not work as a plumbing or mechanical professional or contractor in Iowa until the license is renewed. A licensee who works as a plumbing or mechanical professional, including under a special restricted license, works as a geothermal heat pump installer, or operates as a contractor in the state of Iowa with a lapsed license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code ~~section 147.83~~ chapter 105, criminal sanctions pursuant to Iowa Code ~~section 147.86~~ chapter 105, and other available legal remedies.

ITEM 5. Rescind rule 641—28.2(105) and adopt the following new rule in lieu thereof:

641—28.2(105) Annual review of fee schedule. Within 60 days following the end of each fiscal year, the board shall submit a report to the general assembly that includes a balance sheet projection extending no less than three years. If the revenue projection exceeds the expense projections by more than 10 percent, the board shall adjust the fee schedules so that projected revenues are no more than 10 percent higher than projected expenses. Revised fees shall be implemented no later than January 1, 2013, and January 1 of each subsequent year.

ITEM 6. Amend **641—Chapter 28**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapters~~ chapter 105 as amended by 2011 Iowa Acts, House File 392, and chapter 272C.

[Filed Emergency 6/21/11, effective 6/21/11]

[Published 7/13/11]

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ARC 9604B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby amends Chapter 29, "Plumbing and Mechanical Systems Board—Application, Licensure, and Examination," Iowa Administrative Code.

The purpose of these amendments is to align the rules in Chapter 29 with the definitions and requirements contained in 2011 Iowa Acts, House File 392, as well as to make clarifications needed for certain parts of the rules. These amendments redefine "refrigeration," "HVAC," and "hydronic," which affect the types of applicable licenses for which individuals will need to apply. The amendments extend the licensing period to three years for all licenses. The amendments also allow a candidate two years to apply for the applicable license after passing an examination. The amendments update guidelines for lapsed licenses and include a 30-day grace period before penalties are imposed. In addition, a waiver from examination has been provided for individuals who were in military service during the original waiver period.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation are impracticable because 2011 Iowa Acts, House File 392, became effective upon signing on April 28, 2011.

The Board also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing because 2011 Iowa Acts, House File 392, became effective on April 28, 2011, and the amendments confer a benefit on the public. Professional licenses are being issued under Iowa Code chapter 105, and these amendments extend the licensing period to three years for all licenses, allow a candidate two years to

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apply for the applicable license after passing an examination, update guidelines for lapsed licenses and include a 30-day grace period before penalties begin.

The Plumbing and Mechanical Systems Board adopted these amendments on June 21, 2011.

These amendments are also published herein under Notice of Intended Action as **ARC 9612B** to allow public comment.

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

These amendments are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

These amendments became effective on June 21, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **641—29.1(105)**, definitions of “HVAC,” “Hydronic” and “Refrigeration,” as follows:

“*HVAC*” means heating, ventilation, air conditioning, ~~and~~ ducted systems, or any type of refrigeration used for food processing or preservation. “HVAC” includes all natural, propane, liquid propane, or other gas lines associated with any component of an HVAC system.

“*Hydronic*” means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any ~~comfort~~ heating or ~~comfort~~ cooling system or appliance using a liquid, water, or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system.

“*Refrigeration*” means any system of refrigeration regardless of the level of power, if such refrigeration is intended to be used for the purpose of food processing and product preservation and is ~~not~~ also intended to be used for comfort systems. “Refrigeration” includes all natural, propane, liquid propane, or other gas lines associated with any component of refrigeration.

ITEM 2. Amend rule 641—29.2(105), introductory paragraph, as follows:

641—29.2(105) Available licenses and general requirements. Effective January 1, 2011, all licenses issued by the board will be for a three-year period. All licenses issued prior to January 1, 2011, will be for a two-year period. Subject to the general requirements set forth herein and the minimum qualifications for licensure set forth in rule 641—29.4(105), the following licenses are available:

ITEM 3. Amend paragraph **29.2(4)“g”** as follows:

g. Provide the board with evidence that the applicant holds an active master license or employs at least one person who holds an active master license issued under Iowa Code chapter 105 for each discipline in which the applicant performs chapter 105-covered work.

ITEM 4. Amend paragraph **29.6(3)“l”** as follows:

l. A journeyperson examination applicant may apply to sit for the examination up to ~~60 days~~ 6 months prior to completion of the 48 months of required apprentice credit, which shall include the granting of advanced standing or credit for previously acquired experience, training, or skills.

ITEM 5. Adopt the following new subrule 29.6(4):

29.6(4) Expiration of passing examination score. An applicant who successfully passes an examination must apply for licensure in the applicable discipline at the applicable discipline level within two years of notification that the applicant successfully passed the examination. A passing examination score shall expire if the applicant fails to apply for licensure within the two-year period as set forth herein, and the applicant shall be required to successfully retake said examination to become licensed in the applicable discipline at the applicable discipline level.

ITEM 6. Amend subrule 29.7(1), introductory paragraph, as follows:

29.7(1) The period of licensure to operate as a contractor or work as a master, journeyperson or apprentice in the plumbing, HVAC, refrigeration, or hydronic disciplines or work as a certified medical

PUBLIC HEALTH DEPARTMENT[641](cont'd)

gas system installer or work in the specialty license disciplines developed by the board shall be ~~biennial (every two years)~~ for a period of three years.

ITEM 7. Amend subparagraphs **29.7(2)“b”(1)** and **(2)** as follows:

(1) A licensee who allows a license to lapse for ~~one month~~ 30 days or less may reinstate and renew the license without examination upon payment of ~~a late fee and~~ the appropriate renewal of license fee as defined in 641—subrule 28.1(5).

(2) A licensee who allows a license to lapse for more than ~~one month~~ 30 days but less than ~~two months~~ 60 days may reinstate and renew the license without examination upon payment of ~~a late fee equivalent to the appropriate license fee~~ a \$60 late fee and the appropriate renewal of license fee as defined in 641—subrule 28.1(5).

ITEM 8. Amend paragraph **29.7(2)“c,”** introductory paragraph, as follows:

c. A licensee who allows a license to lapse for more than ~~two months~~ 60 days is required to retake and pass the applicable licensing examination and pay the appropriate renewal of license fee as defined in 641—subrule 28.1(5) in order to obtain reinstatement and renewal of that person’s license.

ITEM 9. Adopt the following new rule 641—29.9(105):

641—29.9(105) Waiver from examination for military service. The written examination requirements and prior experience requirements set forth in Iowa Code sections 105.18(2)“b”(1) and 105.18(2)“c” shall be waived for a journeyman license or master license if the applicant meets all of the following requirements:

29.9(1) Is an active or retired member of the United States military.

29.9(2) Provides documentation that the applicant was deployed on active duty during any portion of the time period of July 1, 2008, through December 31, 2009.

29.9(3) Provides documentation that shows the applicant has previously passed an examination which the board deems substantially similar to the examination for a journeyman license or a master license, as applicable, issued by the board, or provides documentation that shows the applicant has previously been licensed by a state or local government jurisdiction in the same trade and trade level.

ITEM 10. Amend **641—Chapter 29**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

[Filed Emergency 6/21/11, effective 6/21/11]

[Published 7/13/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9605B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 105.4, the Plumbing and Mechanical Systems Board hereby amends Chapter 30, “Continuing Education for Plumbing and Mechanical Systems Professionals,” Iowa Administrative Code.

The purpose of these amendments is to align the rules in Chapter 30 with the definitions and requirements contained in 2011 Iowa Acts, House File 392. These amendments describe the standards governing the criteria for continuing education activities; the standards governing approval for instructors; the requirements for specialty licenses; and the grounds for exempting continuing education requirements.

Pursuant to Iowa Code section 17A.4(3), the Board finds that notice and public participation are impracticable because 2011 Iowa Acts, House File 392, was effective upon signing on April 28, 2011.

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The Board also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and these amendments should be made effective upon filing because 2011 Iowa Acts, House File 392, was effective on April 28, 2011, and the amendments confer a benefit on the public. Professional licenses are being issued under Iowa Code chapter 105, and these amendments provide the guidelines and procedures necessary for the licensees to continue to obtain continuing education credits.

The Plumbing and Mechanical Systems Board adopted these amendments on June 21, 2011.

These amendments are also published herein under Notice of Intended Action as **ARC 9613B** to allow public comment.

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

These amendments are intended to implement Iowa Code chapter 105 as amended by 2011 Iowa Acts, House File 392.

These amendments became effective on June 21, 2011.

The following amendments are adopted.

ITEM 1. Amend subrule 30.2(1) as follows:

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

ITEM 2. Amend subrule 30.2(2) as follows:

30.2(2) Each ~~biennium~~ continuing education compliance period:

a. ~~All inactive and active master or and journey licensee licensees~~ licensees shall be required to complete a minimum of 8 hours of board-approved continuing education, of which 4 hours shall be in the ~~prescribed practice discipline in which the licensee holds a license~~. A minimum of 2 hours of the 8 hours shall be in the content area of the applicable Iowa plumbing or mechanical codes, and 2 hours of the 8 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

b. ~~All inactive and active master or and journey licensee licensees~~ holding licenses in multiple mechanical code disciplines (i.e., HVAC, hydronics, or refrigeration) with the same license expiration date shall obtain a minimum of 14 hours of board-approved continuing education, of which 8 hours shall be in any of the ~~prescribed practice disciplines in which the licensee holds a license~~. A minimum of 2 hours of the 14 hours shall be in ~~each of the content areas area~~ of the applicable ~~Iowa plumbing code, Iowa mechanical code, or both~~, and 4 hours of the 14 hours shall be in the content area of the Iowa Occupational Safety and Health Act. All inactive and active master and journey licensees holding a plumbing discipline license and at least one mechanical code discipline license (i.e., HVAC, hydronics, or refrigeration) with the same expiration date shall obtain a minimum of 16 hours of board-approved continuing education, of which 8 hours shall be in any of the practice disciplines in which the licensee holds a license. A minimum of 2 hours of the 16 hours shall be in the content area of the Iowa plumbing code, 2 hours of the 16 hours shall be in the content area of the Iowa mechanical code, and 4 hours of the 16 hours shall be in the content area of the Iowa Occupational Safety and Health Act.

ITEM 3. Adopt the following new paragraphs 30.2(2)“c” and “d”:

c. An individual possessing one special, restricted license issued pursuant to Iowa Code section 105.18(3) shall be required to complete the same number and type of continuing education hours as set forth in paragraph 30.2(2)“a.” For purposes of paragraph 30.2(2)“c,” the prescribed practice discipline for each special, restricted license shall be the discipline under which the special license is a sublicense.

d. An individual possessing two or more special, restricted licenses issued pursuant to Iowa Code section 105.18(3) shall be required to complete the same number and type of continuing education hours as set forth in paragraph 30.2(2)“b.” For purposes of paragraph 30.2(2)“d,” the prescribed practice discipline for each special, restricted license shall be the discipline under which the special license is a sublicense.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

ITEM 4. Amend subrule 30.2(3) as follows:

30.2(3) Up to 2 hours of board-approved continuing education required by subrule 30.2(2) each ~~biennium~~ continuing education compliance period may be obtained through completion of computer-based continuing education programs/activities approved by the board.

ITEM 5. Amend subrule 30.2(5) as follows:

30.2(5) A licensee who is a presenter of a board-approved continuing education program may receive credit once per ~~biennium~~ continuing education compliance period for the presentation of the program. The licensee may receive the same number of hours granted the attendees.

ITEM 6. Amend subrule 30.3(2) as follows:

30.3(2) *Board approval.* Board approval for specific programs/activities under paragraph 30.3(1) "a" shall be valid for ~~one year~~ three years.

ITEM 7. Adopt the following **new** subrules 30.3(3) and 30.3(4):

30.3(3) *Procedure and standards for board approval of continuing education programs/activities.*

a. For non-computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

(1) File an application in the form prescribed by the board without alteration at least 60 days prior to the first scheduled course date;

(2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours; and

(3) Attach a schedule of courses, if known, which indicates the course's or activity's proposed scheduled locations, dates, and times.

b. For computer-based continuing education programs/activities, an individual or entity seeking board approval shall:

(1) File an application in the form prescribed by the board without alteration;

(2) Attach a copy of the course or activity outline or syllabus which, at a minimum, specifically identifies the course content and a breakdown of the student contact hours;

(3) Attach a schedule of courses, if known, which indicates the course's or activity's proposed scheduled locations, dates, and times;

(4) Provide a brief summary of the training product;

(5) Provide a copy of the CD-ROM, DVD, visual aids, or other materials included with the course or activity; and

(6) Provide the names, contact information, and qualifications or résumés of the training designers.

30.3(4) *Board member attendance.* With board approval, board members may attend any board-approved continuing education program/activity for purposes of determining whether the continuing education program/activity complies with these rules. In the event a board member attends a board-approved continuing education program/activity with the purpose of determining whether the continuing education program/activity complies with these rules, the board member may not receive any continuing education credit for those hours in attendance.

ITEM 8. Rescind subrule 30.4(1) and adopt the following **new** subrule in lieu thereof:

30.4(1) *Procedure and standards for board approval of instructors.* An individual seeking board approval to instruct continuing education programs/activities shall:

a. File an application in the form prescribed by the board without alteration;

b. Attach copies of documents, licensures, degrees, and other materials demonstrating compliance with the requirements for the type of continuing education program/activity as set forth below.

(1) If seeking approval to instruct in the content area of the Iowa Occupational Safety and Health Act, an individual must either possess and maintain a current Occupational Safety and Health Act 500, 501, 502, or 503 card or completion certificate, or both, or possess a current train-the-trainer or instructor card or other certification or safety-related degree or diploma issued by the American Heart Association, American Red Cross, National Safety Council, Board of Certified Safety Professionals, or board-approved equivalent.

PUBLIC HEALTH DEPARTMENT[641](cont'd)

(2) If seeking approval to instruct in the content area of the Iowa plumbing code or Iowa mechanical code, or both, an individual must:

1. Possess a current license issued by the board at the journey or master level in the applicable discipline under that code,
 2. Possess a current license as a professional engineer under Iowa Code chapter 542B,
 3. Present evidence of having taught at least eight contact hours in the applicable code within the last three years,
 4. Possess a current inspector or plans examiner certificate issued by a code body in the discipline,
- or
5. Demonstrate equivalent specialized education or training.

(3) If seeking approval to instruct in the content area of a practice discipline, an individual must:

1. Possess a current license issued by the board at the journey or master level in the applicable discipline,
2. Possess a current license as a professional engineer under Iowa Code chapter 542B,
3. Provide evidence of employment as a product representative with manufacturer training,
4. Present evidence of having taught at least eight contact hours in the applicable discipline within the last year, or
5. Demonstrate equivalent specialized education or training.

ITEM 9. Amend subrule 30.4(2) as follows:

30.4(2) Board approval. Board approval for an instructor under ~~paragraph 30.4(1)“a”~~ subrule 30.4(1) shall be valid for three years.

ITEM 10. Amend paragraph **30.6(1)“d”** as follows:

d. Was absent from the state but engaged in active practice under circumstances which are approved by the board; or

ITEM 11. Adopt the following **new** paragraph **30.6(1)“e”**:

e. Obtained a journeyperson license by examination provided that the licensee maintains the same renewal date as the licensee’s apprentice license. This automatic exemption shall only apply to the licensee’s first renewal of the journeyperson license.

[Filed Emergency 6/21/11, effective 6/21/11]

[Published 7/13/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9616B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 10A.801(7), the Department of Inspections and Appeals hereby amends Chapter 10, "Contested Case Hearings," Iowa Administrative Code.

The adopted amendment to rule 481—10.14(10A,17A) clarifies the methods by which an agency subpoena may be requested from an administrative law judge, the information to be provided to the administrative law judge in the request for a subpoena, and the method by which the subpoena shall be transmitted to the requestor. Additionally, the adopted amendment increases the time period from three days to seven calendar days in which a request for a subpoena must be received by the Division of Administrative Hearings prior to a scheduled hearing.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9514B** on May 18, 2011. One comment was received from the Iowa Health Care Association, which expressed concerns that the amendment might prohibit motions or other remedies in situations where there is a discovery dispute, where discovery breaks down, or where there is a need to extend discovery. The Department has assured the Association that the adopted amendment is not intended to limit remedies for the resolution of discovery disputes. As a result of these conversations, no changes were made to the Notice of Intended Action.

This amendment is intended to implement Iowa Code sections 10A.104(6) and 17A.13.

This amendment will become effective August 17, 2011.

The following amendment is adopted.

Amend subrules 10.14(1) and 10.14(2) as follows:

10.14(1) Issuance.

a. Pursuant to Iowa Code subsection 17A.13(1), the division shall issue an agency subpoena shall be issued to a party on request unless subrule 10.14(1), paragraph "d," applies otherwise excluded pursuant to this rule. A request may be either oral or for a subpoena shall be in writing. The request may be made in person, or by mail, fax, or electronic mail. The request shall include the names of the parties, the case number, the name and address of the requested witness, and a description or list of any documents or other items requested. A written request to for a subpoena shall be received by the division for a subpoena must be received at least three seven calendar days before the scheduled hearing. The request shall include the name, address and telephone number of the requesting party.

b. The division shall provide the subpoena to the requesting party by regular mail, fax, or electronic mail or allow for pickup during the department's regular business hours. Parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

c. When authorized by law, an administrative law judge (ALJ) may issue a subpoena on the ALJ's own motion.

d. When there is reasonable ground to believe a subpoena is requested for the purpose of harassment, or that the subpoena is ~~irrelevant~~ requests irrelevant evidence or is untimely, the ~~administrative law judge~~ ALJ may refuse to issue the subpoena, ~~or~~. The ALJ may require the requesting party to provide a statement of testimony expected to be elicited from the subpoenaed witness and a showing of relevancy. If the ALJ refuses to issue a subpoena, the ALJ shall provide, ~~upon request~~, a written statement of the ground for refusal. A party to whom a refusal is issued may obtain a prompt hearing regarding the refusal by filing a written request with the division.

10.14(2) Motion to quash or modify.

a. A subpoena may be quashed or modified upon motion for any lawful ground in accordance with the Iowa Rules of Civil Procedure.

b. A motion to quash or modify a subpoena shall be served on all parties of record.

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

- c. The motion ~~shall~~ may be set for argument ~~promptly~~ at the discretion of the ALJ.

[Filed 6/22/11, effective 8/17/11]

[Published 7/13/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9601B

MEDICINE BOARD[653]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.2, the Board of Medicine hereby amends Chapter 11, "Continuing Education and Mandatory Training for Identifying and Reporting Abuse," Iowa Administrative Code.

These amendments update language and eliminate redundancies in Chapter 11 and establish continuing education requirements for chronic pain management and end-of-life care.

The Board approved a Notice of Intended Action to amend Chapter 11 on February 11, 2011. Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9413B**. A public hearing was held on March 29, 2011, from 2 to 2:30 p.m. at the Board's office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

Public comments were received from the Iowa Medical Society; the Iowa Osteopathic Medical Association; the Iowa Society of Anesthesiologists; the U.S. Department of Justice, Drug Enforcement Administration; Mark Barnhill, D.O., Iowa Health Physicians; and Norene Mostkoff, Hospice of Central Iowa/HCI Care Services. In response to comments, the following changes were made to the proposed amendments: The word "mandatory" was deleted from the chapter title and throughout rules, subrules, paragraphs and subparagraphs in this chapter because it is redundant. In addition, proposed subparagraphs 11.4(1)"a"(4) to (6) have been renumbered as subrules 11.4(6) to 11.4(8).

These amendments were adopted by the Board on June 3, 2011.

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

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

These amendments will become effective on August 17, 2011.

The following amendments are adopted.

ITEM 1. Amend **653—Chapter 11**, title, as follows:

CONTINUING EDUCATION AND MANDATORY TRAINING
FOR IDENTIFYING AND REPORTING ABUSE REQUIREMENTS

ITEM 2. Amend rule **653—11.1(272C)**, definition of "Mandatory training for identifying and reporting abuse," as follows:

~~"Mandatory training~~ Training for identifying and reporting abuse" means training on identifying and reporting child abuse or dependent adult abuse required of physicians who regularly provide primary health care to children or adults, respectively. The full requirements on ~~mandatory~~ reporting of child abuse and the training requirements are in Iowa Code section 232.69; the full requirements on ~~mandatory~~ reporting of dependent adult abuse and the training requirements are in Iowa Code section 235B.16.

ITEM 3. Amend rule 653—11.4(272C) as follows:

653—11.4(272C) Continuing education and training requirements for renewal or reinstatement. A licensee shall meet the requirements in this rule to qualify for renewal of a permanent or special license or reinstatement of a permanent license.

11.4(1) Continuing education and ~~mandatory training for identifying and reporting abuse requirements.~~

a. *Continuing education for permanent license renewal.* Except as provided in these rules, a total of 40 hours of category 1 activity or board-approved equivalent shall be required for biennial renewal

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of a permanent license. This may include up to 20 hours of credit carried over from the previous license period and category 1 activity acquired within the current license period.

(1) and (2) No change.

~~(3) A licensee shall maintain a file containing records documenting continuing education activities, including dates, subjects, duration of programs, registration receipts where appropriate and any other relevant material, for four years after the date of the activity. The board may audit this information at any time within the four years. If the board conducts an audit of continuing education activities, a licensee shall respond to the board and provide all materials requested, within 30 days of a request by board staff or within the extension of time if one had been granted. Failure to comply with this provision is grounds for discipline.~~

(3) Category 1 CME activity. A licensee shall complete the training as part of a category 1 CME activity or an approved training program. A licensee may apply the category 1 CME activity credit received for the training during the license period in which the training occurred toward the 40 hours of continuing education required for biennial renewal.

b. No change.

~~c. Mandatory training Training for identifying and reporting child and dependent adult abuse for permanent or special license renewal. The licensee shall complete the training as part of a category 1 activity or an approved training program. The licensee may utilize category 1 activity credit received for this training during the license period in which the training occurred to meet continuing education requirements in paragraph 11.4(1)“a.”~~

(1) Training to identify child abuse. A licensee who regularly provides primary health care to children shall indicate on the renewal application the completion of must complete at least two hours of training in child abuse identification and reporting ~~in the previous~~ every five years. “A licensee who regularly provides primary health care to children” means all emergency physicians, family practitioners physicians, general practice physicians, pediatricians, and psychiatrists, and any other physician who regularly provides primary health care to children.

(2) Training to identify dependent adult abuse. A licensee who regularly provides primary health care to adults shall indicate on the renewal application the completion of must complete at least two hours of training in dependent adult abuse identification and reporting ~~in the previous~~ every five years. “A licensee who regularly provides primary health care to adults” means all emergency physicians, family practitioners physicians, general practice physicians, internists, obstetricians, gynecologists, and psychiatrists, and any other physician who regularly provides primary health care to adults.

(3) Combined training to identify child and dependent adult abuse. A licensee who regularly provides primary health care to adults and children shall indicate on the renewal application the completion of must complete at least two hours of training on ~~in~~ the identification and reporting of abuse in dependent adults and children every five years. ~~This~~ The training may be completed through separate courses as identified in subparagraphs 11.4(1)“c” (1) and (2) above or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. “A licensee who regularly provides primary health care to children and adults” means all emergency physicians, family practitioners physicians, general practice physicians, internists, and psychiatrists, and any other physician who regularly provides primary health care to children and adults.

~~(4) A licensee shall maintain a file containing records documenting mandatory training for identifying and reporting abuse, including dates, subjects, duration of programs, and proof of participation, for five years after the date of the training. The board may audit this information at any time within the five-year period. If the board conducts an audit of mandatory training for identifying and reporting abuse, a licensee shall respond to the board and provide all materials requested, within 30 days of a request made by board staff or within the extension of time if one had been granted. Failure to comply with this provision is grounds for discipline.~~

d. Training for chronic pain management for permanent or special license renewal. A licensee who regularly provides primary health care to patients must complete at least two hours of training for chronic pain management every five years. “A licensee who regularly provides primary health care to patients” means all emergency physicians, family physicians, general practice physicians, internists,

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neurologists, pain medicine specialists, psychiatrists, and any other physician who regularly provides primary health care to patients.

e. Training for end-of-life care for permanent or special license renewal. A licensee who regularly provides primary health care to patients must complete at least two hours of training for end-of-life care every five years. “A licensee who regularly provides primary health care to patients” means all emergency physicians, family physicians, general practice physicians, internists, neurologists, pain medicine specialists, psychiatrists, and any other physician who regularly provides primary health care to patients.

11.4(2) *Exemptions from renewal requirements.*

a. No change.

b. The requirements for ~~mandatory~~ training on identifying and reporting abuse for license renewal shall be suspended for a licensee who provides evidence for:

(1) and (2) No change.

11.4(3) and **11.4(4)** No change.

11.4(5) *Cost of continuing education and ~~mandatory training for identifying and reporting abuse for renewal or reinstatement.~~ It is the responsibility of each* Each licensee to finance the ~~is responsible~~ for all costs of continuing education and training required in 653—Chapter 11.

11.4(6) *Documentation.* A licensee shall maintain documentation of the continuing education and training requirements in 653—Chapter 11, including dates, subjects, duration of programs, and proof of participation, for five years after the date of the continuing education and training.

11.4(7) *Audits.* The board may audit continuing education and training documentation at any time within the five-year period. If the board conducts an audit of continuing education and training, a licensee shall respond to the board and provide all materials requested, within 30 days of a request made by board staff or within the extension of time if one has been granted.

11.4(8) *Grounds for discipline.* A licensee may be subject to disciplinary action for failure to comply with continuing education and training requirements in 653—Chapter 11.

ITEM 4. Amend rule 653—11.5(272C), catchwords, as follows:

653—11.5(272C) Failure to fulfill requirements for continuing education and ~~mandatory training for identifying and reporting abuse.~~

ITEM 5. Amend paragraph **11.5(1)“c,”** introductory paragraph, as follows:

c. The committee shall consider the staff’s recommendation for denial of credit for continuing education or ~~mandatory~~ training for identifying and reporting abuse.

ITEM 6. Amend subparagraph **11.5(1)“d”(2)** as follows:

(2) If the board denies the credit, it shall:

1. Close the case;

2. Send the licensee or applicant an informal, nonpublic letter of warning, which may include recommended terms for complying with the requirements for continuing education or ~~mandatory~~ training for identifying and reporting abuse; or

3. File a statement of charges for noncompliance with the board’s rules on continuing education or ~~mandatory~~ training for identifying and reporting abuse and for any other violations which may exist.

ITEM 7. Amend subrule 11.5(2), introductory paragraph, as follows:

11.5(2) Informal appearance for failure to complete requirements for continuing education or ~~mandatory~~ training for identifying and reporting abuse.

[Filed 6/15/11, effective 8/17/11]

[Published 7/13/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9599B**MEDICINE BOARD[653]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medicine hereby amends Chapter 13, "Standards of Practice and Principles of Medical Ethics," Iowa Administrative Code.

These amendments require, in certain circumstances, a physician or surgeon or osteopathic physician or surgeon to use pain management agreements when a patient's chronic pain is treated with controlled substances and encourage physicians to use the Iowa Prescription Monitoring Program database and to conduct drug testing on patients when treating chronic pain with controlled substances.

The Board approved a Notice of Intended Action to amend Chapter 13 on February 11, 2011. Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9414B**. A public hearing was held on March 29, 2011, from 2:30 to 3 p.m. at the Board's office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa.

Public comments were received from the Iowa Medical Society; the Iowa Osteopathic Medical Association; the Iowa Society of Anesthesiologists; the U.S. Department of Justice, Drug Enforcement Administration; Mark Barnhill, D.O., Iowa Health Physicians; and Elaine K. Berry, M.D., Cass County Hospice. In response to comments, the following changes were made to the proposed amendments:

- Pain management agreements are to be used for patients who are prescribed controlled substances for more than 90 days, and then only if the physician has reason to believe that a patient is at risk of drug abuse or diversion.
- Physicians shall consider use of drug testing for patients who are prescribed controlled substances for more than 90 days to ensure that the patient is receiving appropriate therapeutic levels of prescribed medications or if the physician has reason to believe that a patient is at risk of drug abuse or diversion.
- If a pain management agreement is not used for patients who are prescribed controlled substances for more than 90 days, the physician shall document the justification in the patient's medical record.
- Pain management agreements are not necessary for hospice or nursing home patients.
- The proposed phrase "strongly recommends" was changed to "recommends" in this sentence in subrule 13.2(7): "The board recommends that physicians utilize the prescription monitoring program when prescribing controlled substances to patients if the physician has reason to believe that a patient is at risk of drug abuse or diversion."

These amendments were adopted by the Board on June 3, 2011.

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

These amendments are intended to implement Iowa Code chapters 148 and 272C.

These amendments will become effective on August 17, 2011.

The following amendments are adopted.

ITEM 1. Amend paragraph **13.2(5)"g"** as follows:

g. ~~Physician-patient Pain management agreements.~~ A physician ~~treating~~ who treats patients for chronic pain with controlled substances ~~or opiates~~ shall consider ~~establishing physician-patient agreements~~ using a pain management agreement with each patient being treated that ~~specify~~ specifies the rules for medication use and the consequences for misuse. In ~~preparing an~~ determining whether to use a pain management agreement, a physician shall evaluate the case of each patient on its own merits, taking into account the nature of the risks to the patient and the potential benefits of long-term treatment with controlled substances. A physician who prescribes controlled substances to a patient for more than 90 days for treatment of chronic pain shall utilize a pain management agreement if the physician has reason to believe a patient is at risk of drug abuse or diversion. If a physician prescribes controlled substances to a patient for more than 90 days for treatment of chronic pain and chooses not to use a pain management agreement, then the physician shall document in the patient's medical records the reason(s) why a pain management agreement was not used. Use of pain management agreements is not necessary for hospice or nursing home patients. A sample pain management agreement and prescription drug risk assessment tools may be found on the board's Web site at www.medicalboard.iowa.gov.

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ITEM 2. Reletter paragraph **13.2(5)“i”** as **13.2(5)“j.”**

ITEM 3. Adopt the following **new** paragraph **13.2(5)“i”**:

i. Drug testing. A physician who prescribes controlled substances to a patient for more than 90 days for the treatment of chronic pain shall consider utilizing drug testing to ensure that the patient is receiving appropriate therapeutic levels of prescribed medications or if the physician has reason to believe that the patient is at risk of drug abuse or diversion.

ITEM 4. Renumber subrule **13.2(7)** as **13.2(8)**.

ITEM 5. Adopt the following **new** subrule 13.2(7):

13.2(7) Prescription monitoring program. The Iowa board of pharmacy has established a prescription monitoring program pursuant to Iowa Code sections 124.551 to 124.558 to assist prescribers and pharmacists in monitoring the prescription of controlled substances to patients. The board recommends that physicians utilize the prescription monitoring program when prescribing controlled substances to patients if the physician has reason to believe that a patient is at risk of drug abuse or diversion. A link to the prescription monitoring program may be found at the board's Web site at www.medicalboard.iowa.gov.

[Filed 6/15/11, effective 8/17/11]

[Published 7/13/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9598B

MEDICINE BOARD[653]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3(1)“f,” the Board of Medicine hereby amends Chapter 23, “Grounds for Discipline,” Iowa Administrative Code.

These amendments establish as grounds for discipline a physician's or surgeon's or osteopathic physician's or surgeon's failure to report the physician's or surgeon's HIV or HBV status to an expert review panel established by a hospital and to an expert review panel established by the Department of Public Health.

The Board approved a Notice of Intended Action to amend Chapter 23 on February 11, 2011. Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9415B**. A public hearing was held on March 29, 2011, from 3 to 3:30 p.m. at the Board's office, 400 S.W. Eighth Street, Suite C, Des Moines, Iowa. No public comments were received on the proposed amendments. These amendments are identical to those published under Notice.

These amendments were adopted by the Board on June 3, 2011.

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

These amendments are intended to implement Iowa Code chapter 139A.

These amendments will become effective on August 17, 2011.

The following amendments are adopted.

ITEM 1. Renumber subrules **23.1(31)** to **23.1(44)** as **23.1(34)** to **23.1(47)**.

ITEM 2. Adopt the following **new** subrules 23.1(31) to 23.1(33):

23.1(31) Failure by a physician with HIV or HBV who practices in a hospital setting, and who performs exposure-prone procedures, to report the physician's HIV or HBV status to an expert review panel established by a hospital under Iowa Code section 139A.22(1) or to an expert review panel established by the department of public health under Iowa Code section 139A.22(3).

23.1(32) Failure by a physician with HIV or HBV who practices outside a hospital setting, and who performs exposure-prone procedures, to report the physician's HIV or HBV status to an expert review panel established by the department of public health under Iowa Code section 139A.22(3).

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23.1(33) Failure by a physician subject to the reporting requirements of 23.1(31) and 23.1(32) to comply with the recommendations of an expert review panel established by the department of public health pursuant to Iowa Code section 139A.22(3), with hospital protocols established pursuant to Iowa Code section 139A.22(1), or with health care facility procedures established pursuant to Iowa Code section 139A.22(2).

[Filed 6/15/11, effective 8/17/11]

[Published 7/13/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/13/11.

ARC 9606B

PROFESSIONAL LICENSURE DIVISION[645]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Dietetics hereby amends Chapter 81, "Licensure of Dietitians," Chapter 82, "Continuing Education for Dietitians," and Chapter 83, "Discipline for Dietitians," Iowa Administrative Code.

These amendments add definitions of "consultation" and "supervision of nonlicensees"; clarify the requirements for submitting documents to verify that licensure requirements are met; establish new requirements for degree evaluation of foreign-trained dietitians; clarify acceptance of supervised practice experience for licensure; provide to license applicants who hold licensure in other states alternate forms of verification of passing the national examination; rescind the requirement for mailing a renewal notice that is outdated given the current online renewal system; add a definition of "webinar" applicable to continuing education; provide clarification for obtaining hours of continuing education; remove the audit language for continuing education programs and activities submitted in accordance with professional development portfolios for American Dietetic Association/Commission on Dietetic Registration (ADA/CDR) certification; and adopt the ADA/CDR Code of Ethics for the Profession of Dietetics and Process for Consideration of Ethics Issues, as revised January 1, 2010.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 9, 2011, as **ARC 9426B**. A public hearing was held on March 29, 2011, in the Fifth Floor Board Conference Room, Lucas State Office Building. No public comments were received. One change was made to correct an error in the proposed amendments. In Item 9, the item statement has been changed to amend rule 645—82.1(152A), definitions, rather than rule 645—81.2(152A).

These amendments will become effective August 17, 2011.

These amendments are intended to implement Iowa Code chapters 21, 147, 152A and 272C.

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 Chs 81 to 83] is being omitted. With the exception of the change noted above, these amendments are identical to those published under Notice as **ARC 9426B**, IAB 3/9/11.

[Filed 6/21/11, effective 8/17/11]

[Published 7/13/11]

[For replacement pages for IAC, see IAC Supplement 7/13/11.]

ARC 9600B

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

Adopted and Filed

Pursuant to the authority of Iowa Code section 8D.3(3)“b,” the Iowa Telecommunications and Technology Commission hereby amends Chapter 1, “Description of Organization,” Iowa Administrative Code.

The purpose of Chapter 1 is to describe the administrative structure of the Iowa Telecommunications and Technology Commission and the Iowa Communications Network. Item 1 reflects changes made in the advisory committees to the Iowa Telecommunications and Technology Commission pursuant to Iowa Code section 8D.6 and the repeal of Iowa Code section 8D.7 by 2006 Iowa Acts, chapter 1126. Item 2 aligns the rules with changes made in the organizational structure of the Iowa Communications Network.

Notice of Intended Action was published in the Iowa Administrative Bulletin on April 20, 2011, as **ARC 9469B**. No written comments were received. In new paragraph 1.5(2)“b,” the phrase “personnel transitions” was changed to “personnel transactions.”

The Iowa Telecommunications and Technology Commission adopted these amendments on June 15, 2011.

The amendments will become effective on August 17, 2011.

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

These amendments are intended to implement Iowa Code chapter 8D.

The following amendments are adopted.

ITEM 1. Amend rule 751—1.3(17A,8D) as follows:

751—1.3(17A,8D) Advisory committees.

~~1.—The telemedicine advisory committee performs advisory functions related to the delivery of telemedicine applications.~~

~~2.—The telecommunications advisory committee provides technical expertise to the network.~~

3. The commission may establish or dissolve ~~other~~ committees and advisory groups from time to time as necessary.

ITEM 2. Amend subrule 1.5(2) as follows:

1.5(2) Administrative elements. In order to carry out the functions of the commission, the following divisions ~~and offices~~ have been established:

~~a.—The office of the deputy director is responsible for agency information systems functions, legislative liaison, public information, maintenance of a circuit database, and administrative support to the commission. The office also provides information and education to the public about the commission and the fiberoptic network and maintains the commission’s Web site.~~

~~b.—The office of the chief financial officer is responsible for final review of the financial books and records prepared by the finance division prior to providing them to the commission, asset inventory and management, personnel transactions, and purchasing and contracting activities, as well as coordination with the attorney general’s office for legal counsel.~~

~~c.—The finance division is responsible for maintaining the financial books and records of the commission, accounting, billing, asset inventory and management, personnel transactions, travel vouchers, claims for payments of goods and services, processing cash receipts, purchasing and contracting activities, and facilities.~~

a. The business and governmental services division coordinates the activities between the engineers, individual sites, and authorized users. The division is responsible for providing cost estimates for services; tracking service requests; executing installation services; assisting authorized users in finding the best structure to meet the users’ needs; developing new products and services; maintaining price tables; and providing customer service and assistance. The division is responsible for providing

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legislative liaison and public information functions as well as providing administrative support to the commission. The division provides information and education to the public about the commission and the fiberoptic network and maintains the commission's Web site.

b. The finance division is responsible for maintaining the financial books and records of the commission, accounting, billing, asset inventory and management, personnel transactions, travel vouchers, claims for payments of goods and services, processing cash receipts, purchasing, and contracting activities, as well as coordination with the attorney general's office for legal counsel.

d. c. The network operations and engineering division is responsible for provisioning of video services, data/Internet services, and voice services for authorized users. The division is responsible for all operational aspects of the fiberoptic network. The division is also responsible for the technical operation of the fiberoptic network, including research and development, and; network systems; agency information systems functions; and maintenance of a circuit database.

e. The service delivery division coordinates the activities between the engineers, individual sites, and authorized users. The division is responsible for providing cost estimates for services; tracking service requests; executing installation services; assisting authorized users in finding the best structure to meet the users' needs; developing new products and services; maintaining price tables; and providing customer service and assistance.

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