



IOWA ADMINISTRATIVE BULLETIN

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Pages 121 to 202

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PREFACE

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

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

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

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

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

Fax: (515)281-5534

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2014

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
5	Friday, August 15, 2014	September 3, 2014
6	Wednesday, August 27, 2014	September 17, 2014
7	Friday, September 12, 2014	October 1, 2014

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*****

EDUCATIONAL EXAMINERS BOARD[282]

Substitute authorization— elementary classroom, 22.2 IAB 7/23/14 ARC 1552C	Room 3 Southwest, Third Floor Grimes State Office Bldg. Des Moines, Iowa	August 13, 2014 1 p.m.
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Boiler and pressure vessel board—schedule for internal inspection of certain objects, 90.6 IAB 7/23/14 ARC 1550C	Capitol View Room 1000 East Grand Ave. Des Moines, Iowa	August 13, 2014 9 a.m. (If requested)

NATURAL RESOURCE COMMISSION[571]

Removal of aquatic vegetation near boat docks and in pathways to open water, 54.5 IAB 8/6/14 ARC 1564C	DNR Wildlife Station Balsam Ave. Ventura, Iowa	August 28, 2014 6 p.m.
	Conference Room 4W Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	September 4, 2014 1:30 p.m.
Fishing regulations; trotlines, 81.1 to 81.3; rescind ch 85 IAB 8/6/14 ARC 1565C	DNR Wildlife Station Balsam Ave. Ventura, Iowa	August 28, 2014 7 p.m.
	Visitor Center Lewis and Clark State Park 21914 Park Loop Onawa, Iowa	September 2, 2014 6:30 p.m.
	Dickinson County Nature Center 2279 170th St. Okoboji, Iowa	September 3, 2014 6:30 p.m.
	Conference Room 4W Wallace State Office Bldg. 502 E. 9th St. Des Moines, Iowa	September 4, 2014 3 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Marital and family therapists and mental health counselors—licensure, 31.2, 31.6, 31.8 IAB 7/23/14 ARC 1558C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 12, 2014 8 to 8:30 a.m.
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PROFESSIONAL LICENSURE DIVISION[645](cont'd)

Physical and occupational therapists and therapist assistants—licensure, continuing education, 200.4(3), 203.2(1), 203.3(2), 207.2(1), 207.3(2) IAB 7/23/14 ARC 1559C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	August 12, 2014 8 to 8:30 a.m.
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PUBLIC HEALTH DEPARTMENT[641]

Newborn hearing and critical congenital heart disease screening; newborn screening data and specimens; sliding fee scale for neuromuscular and related disorder program, 4.1 to 4.3, 4.6(3), 4.8 IAB 8/6/14 ARC 1567C (See also ARC 1471C , IAB 5/28/14) (ICN Network)	DPH Sixth Floor Reception Desk Lucas State Office Bldg. 321 E. 12th St. Des Moines, Iowa (Origination site)	August 26, 2014 1 to 2 p.m.
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Public Library 21 E. 3rd St. Spencer, Iowa	August 26, 2014 1 to 2 p.m.
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Public Library 202 Winnebago St. Decorah, Iowa	August 26, 2014 1 to 2 p.m.
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Human Services Department 417 E. Kanesville Blvd. Council Bluffs, Iowa	August 26, 2014 1 to 2 p.m.
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Public Library Information Center 2950 Learning Campus Dr. Bettendorf, Iowa	August 26, 2014 1 to 2 p.m.
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To participate by telephone:
Call: 1-866-685-1580 / Passcode: 5152816466#

Medical cannabidiol Act registration card program, ch 154 IAB 8/6/14 ARC 1571C (ICN Network)	Ottumwa Regional Health Center 1001 E. Pennsylvania Ottumwa, Iowa	August 26, 2014 11:30 a.m. to 1 p.m.
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Iowa Western Community College – 1 2700 College Rd. Council Bluffs, Iowa	August 26, 2014 11:30 a.m. to 1 p.m.
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Public Library 321 Main Davenport, Iowa	August 26, 2014 11:30 a.m. to 1 p.m.
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North Iowa Area Community College – 4 500 College Dr. Mason City, Iowa	August 26, 2014 11:30 a.m. to 1 p.m.
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Sixth Floor, Lucas State Office Bldg.
321 E. 12th St.
Des Moines, Iowa

August 26, 2014
11:30 a.m. to 1 p.m.

To participate by conference call:

Dial: 1-866-685-1580 / Passcode: 5152814355

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Electrical installations—adoption
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IAB 7/23/14 **ARC 1557C**

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Oran Pape State Office Bldg.
215 E. 7th St.
Des Moines, Iowa

August 12, 2014
1 p.m.

UTILITIES DIVISION[199]

Eligibility, certification, and
reporting requirements for
eligible telecommunications
carriers and related
confidentiality provisions,
1.9(5), ch 39
IAB 8/6/14 **ARC 1563C**

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

October 28, 2014
9 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.”

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FEMA DR-4181-IA

AGENCY	PROGRAM	ELIGIBLE APPLICANTS	TYPES OF PROJECT
<p>Iowa Homeland Security and Emergency Management Department (HSEMD)</p>	<p>Hazard Mitigation Grant Program (HMGP) Authorized by §203 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act), 42 U.S.C. 5133, as amended by §102 of the Disaster Mitigation Act of 2000 (DMA)</p>	<ul style="list-style-type: none"> • State Agencies and Local Governments • Federally recognized Indian Tribal governments, to include state recognized Indian Tribes, and Authorized Tribal Organizations. • Private Non Profit (PNP) Organizations or institutions which operate a PNP facility as defined in the 44 Code of Federal Regulations (CFR), Section 206.221(e) • All applicants must be participating in the NFIP if they have been identified as having a Special Flood Hazard Area. The Community must not be on probation, suspended or withdrawn from the NFIP. • All Applicants for a project grant MUST have a FEMA approved local hazard mitigation plan. <p>Application Process:</p> <ul style="list-style-type: none"> - Potential project & planning applicants must complete a Notice of Interest (NOI) Form located on the HSEMD website at: http://www.iowahomelandsecurity.org/grants/HMA.html - NOI Form must be emailed to hsemd.mitigation@iowa.gov - NOIs will be selected for full application development based on funding availability, the State's priority, and an initial eligibility review. -NOIs will be accepted on a continuous basis or until otherwise notified. <p>For additional information, please contact:</p> <p style="text-align: center;">Dan Schmitz 515-725-9369 Dennis Harper 515-725-9348</p> <p style="text-align: center;">Iowa Homeland Security and Emergency Management Department 7900 Hickman Road Windsor Heights, IA 50324</p>	<p>Eligible Project Types</p> <p>Projects may be of any nature that will result in protection to public or private property, including but not limited to:</p> <ul style="list-style-type: none"> • Acquisition or relocation of hazard-prone property for conversion to open space in perpetuity • Construction of safe rooms (tornado and severe wind shelters) • Structural and nonstructural retrofitting of existing buildings and facilities (including designs and feasibility studies when included as part of the construction project) for wildfire, seismic, wind or flood hazards (e.g., elevation, flood-proofing, storm shutters, hurricane clips) • Minor structural hazard control or protection projects that may include vegetation management, storm water management (e.g., culverts, floodgates, retention basins), or shoreline/landslide stabilization • Localized flood control projects, such as certain ring levees and floodwall systems, that are designed specifically to protect critical facilities and do not constitute a section of a larger flood control system • Development of multi-jurisdictional hazard mitigation plans and plan updates <p>Planning Application</p> <p>The outcome of a mitigation planning grant award must be a FEMA approved hazard mitigation plan that complies with the requirements of 44 CFR Part 201. The planning grant deliverable can be a new hazard mitigation plan or an update of an already FEMA approved hazard mitigation plan.</p>

ARC 1564C

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 461A.35, and 461A.41, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 54, “Restrictions on Introduction and Removal of Plant Life,” Iowa Administrative Code.

The proposed amendments will allow dock permittees more flexibility in removing aquatic vegetation without a permit around boat docks and when creating boating pathways to open water. Recent efforts by the Department of Natural Resources (Department) to improve water quality have been very successful, and much of this success is due to the Department’s Lake Restoration Program. Clear water is a benefit of improved water quality, but it may result in the growth of dense-rooted aquatic plant life. Lake users are very pleased with lake restoration efforts and the good water clarity that results from those efforts. However, some dock permittees, including private individuals as well as cities and counties, are faced with excessive growth of rooted aquatic plants around boat docks and in pathways to open water. The Department has received complaints from dock permittees requesting that action be taken to streamline the process for removing such vegetation.

These proposed amendments are intended to give dock permittees additional justification to remove aquatic vegetation without a permit, thereby reducing the Department’s administrative time in reviewing and issuing such permits, and to remove the vegetation in a manner that does not harm water quality or aquatic life.

Any person may submit written suggestions or comments on the proposed amendments through September 4, 2014. Such written material should be submitted to Martin Konrad, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by e-mail to Martin.Konrad@dnr.iowa.gov. Persons who have questions may contact Martin Konrad by e-mail or by telephone at (515)281-6976.

Also, two public hearings where persons may present their views orally or in writing will be held as follows:

August 28, 2014	6 p.m.	DNR Wildlife Station Balsam Avenue Ventura, Iowa
September 4, 2014	1:30 p.m.	Wallace State Office Building Conference Room 4W 502 E. 9th Street Des Moines, Iowa

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and request specific accommodations.

After analysis and review of this rule making, no impact on jobs should result.

These amendments are intended to implement Iowa Code sections 455A.5(6)“a,” 461A.35, and 461A.41.

The following amendments are proposed.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 1. Amend subrule 54.5(1) as follows:

54.5(1) Permits.

a. The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

b. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.

ITEM 2. Amend subrule 54.5(5) as follows:

54.5(5) Exceptions.

a. ~~Activities accomplished by the department or its agents to introduce or remove aquatic vegetation in public waters shall be deemed appropriate and shall not be subject to the permit requirements of this rule provided the activity is in the public interest and the activity does not constitute one of the prohibited activities described in 571—subrule 13.6(2). A dock permittee whose dock meets rule 571—16.4(461A,462A), 571—16.6(461A,462A), or 571—16.7(461A,462A) may remove aquatic vegetation without a permit if the aquatic vegetation:~~

- (1) Creates a hazardous or detrimental condition in the boating area around the dock, or
- (2) Covers a minimum of 75 percent of the boating area around the dock.

b. ~~Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.~~

b. A dock permittee meeting one of the exceptions in paragraph 54.5(5) "a" must verify at inspection that the dock meets the criteria for a Class I, Class II or Class III dock permit and is limited to the following:

- (1) Removal of vegetation in a 20-foot radius around the dock;
- (2) Removal of a hazardous or detrimental condition when it interferes with safe boating passage and is located within the boating area around the dock;
- (3) Creation of a 15-foot-wide boating pathway utilizing a direct route from the dock to open water;
- (4) Adherence to the requirement to leave the vegetation in place or collect and compost it on land that is owned, leased or otherwise subject to use by the dock permittee and is adjacent to the removal area;

(5) Removal of the vegetation by hand-cutting, hand-pulling, hand-raking or mechanical cutting devices, excluding automated plant control devices that disturb the bottom substrate.

e. ~~Aquatic vegetation located in public waters may be removed by persons without a permit under this rule only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental activity. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or the removal shall be deemed an unauthorized action resulting in damage to public waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard or detrimental condition and provide written authorization to proceed or shall require the person to apply for a permit under this rule.~~

ARC 1565C**NATURAL RESOURCE COMMISSION[571]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 481A.38, 481A.39, 481A.67, 481A.73, 481A.74, and 481A.76, the Natural Resource Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 81, “Fishing Regulations,” and to rescind Chapter 85, “Trotlines,” Iowa Administrative Code.

The purposes of this rule making are as follows:

1. Modify the language in subrule 81.2(1) regarding fishing for muskellunge on the Okoboji lakes to make the subrule easier to read and to change the season to make it consistent with language proposed for the Iowa/Minnesota border muskellunge season. (See Item 2.)

2. Establish special walleye length limits by posting signs and remove Black Hawk Lake from the list of lakes that have additional restrictions on walleye fishing. First, to maximize fishing opportunities without harming the walleye population, the Commission proposes to remove from subrule 81.2(3) the daily bag limit of three for walleye at Black Hawk Lake and replace it with a daily bag limit of five. Second, proposed paragraph 81.2(3)“b” will give staff from the Department of Natural Resources (DNR) the flexibility to manage walleye populations in the same manner as it does bass. For years, the DNR has established bass length limits by posting length limit signs at lakes. Anglers are not only familiar with this approach, but it has proven to be a successful management methodology. (See Item 3.)

3. Modify the fishing regulations on Iowa/Minnesota border lakes. The Iowa/Minnesota border transects five lakes. Fisheries professionals from both states work together to manage these sport fisheries. Changes to subrule 81.2(6) are proposed to sustain quality fishing opportunities on these lakes. In addition to specifying new bag and possession limits for numerous species such as crappie, sunfish, and white bass, this proposed amendment will reduce the walleye, largemouth bass, and smallmouth bass daily bag limit from six to three. (See Item 5 herein.) The proposed walleye daily bag limit is consistent with the existing walleye bag limit of nearby Spirit and East and West Okoboji Lakes; Upper and Lower Gar Lakes; and Minnewashta Lake. The proposed largemouth and smallmouth bass daily bag limit is consistent with Iowa’s existing statewide daily bag limit for bass. Therefore, although there will be a reduction in daily bag limits, the proposed limits are consistent with other Iowa locations and will ensure that fishing opportunities on the border lakes are sustained into the future. This will also provide a clear standard to anglers who fish at both border lakes and Okoboji lakes. The Minnesota DNR is also in the process of proposing these same rule changes.

4. Prohibit snagging and bow and arrow and spear fishing at specified Clear Lake and Lost Island Lake locations, as well as at the Lower Gar Lake outlet. The DNR and its partners have made significant investments to restore water quality, aquatic habitats and water-based recreational opportunities at Clear Lake (approximately \$13 million) and Lost Island Lake (approximately \$1.5 million). Carp are a major contributor to poor water quality, and significant portions of these restoration dollars included methods to eliminate or reduce adult carp reproduction in wetlands adjacent to these lakes. There is evidence that anglers catch carp at outflow areas in these lakes and release them into the wetlands (rather than back into the lake). Evidence includes finding arrow-injured/scarred carp in the wetlands. In other words, human behavior is allowing the carp to bypass the physical and chemical barriers constructed to prevent carp movement into the wetlands. Significantly, the addition of even just a few spawning carp into the wetlands can produce millions of carp in a year that could return to the lake, jeopardizing the success of costly restoration efforts. Bow fishers are also leaving their catch to rot at the sites at which the fish are caught. These dead fish create undesirable conditions for other anglers. In sum, prohibiting snagging

NATURAL RESOURCE COMMISSION[571](cont'd)

and bow and arrow and spear fishing at the locations listed in new paragraph “b” of subrule 81.2(11) will protect water quality as well as ensure an enjoyable environment for other anglers.

Similarly, invasive silver and bighead carp species invaded the Iowa Great Lakes during the 2010 floods. To prevent future invasions, the DNR constructed an electric fish barrier at the outlet area of Lower Gar Lake. Fencing and signage safety measures were implemented around the barrier even though it was designed to pose minimum risk to public safety. Bow fishers are bypassing these safety and access measures and are putting themselves at risk. To eliminate the threat of angler injury at this location, the Commission is proposing to restrict snagging and bow and arrow and spear fishing around the fish barrier. (See Item 6.)

5. Remove hand fishing as a legal means of take for all rough fish (e.g., common carp). This change will make the rules consistent between rough fish and sport fish (hand fishing for sport fish is already illegal). (See Item 6.)

6. Establish the harvest of paddlefish on the Missouri and Big Sioux Rivers. The proposed amendment to paragraph 81.2(4)“e” implements regulations governing the harvest of paddlefish on the Missouri and Big Sioux Rivers, including the number of annual paddlefish fishing licenses that may be issued. This amendment is proposed to implement 2014 Iowa Acts, Senate File 2198, signed by Governor Branstad on April 3, 2014. (See Items 1 and 4.)

7. Rescind Chapter 85. New rule 571—81.3(481A) contains the list of designated areas in the state where anglers may use trotlines or throw lines. This list was previously found in Chapter 85, but it is not necessary to have two chapters of administrative rules on fishing regulations. Therefore, the rescission of Chapter 85 is being proposed, and its content is merged into Chapter 81. (See Item 8.) In addition to moving the list into Chapter 81, the Mississippi River in Allamakee, Clayton, Dubuque, and Jackson Counties is being designated as an approved trotline stream segment. This designation was always intended but was not done in prior rule making due to staff oversight. (See Item 7.)

Any person may submit written suggestions or comments on the proposed amendments through September 4, 2014. Such written material should be submitted to Martin Konrad, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895; or by e-mail to Martin.Konrad@dnr.iowa.gov. Persons who have questions may contact Martin Konrad at (515)281-6976.

Public hearings where persons may present their views orally or in writing will be held as follows:

August 28, 2014	7 p.m.	DNR Wildlife Station Balsam Avenue Ventura, Iowa
September 2, 2014	6:30 p.m.	Lewis and Clark State Park Visitor Center 21914 Park Loop Onawa, Iowa
September 3, 2014	6:30 p.m.	Dickinson County Nature Center 2279 170th Street Okoboji, Iowa
September 4, 2014	3 p.m.	Wallace State Office Building Conference Room 4W 502 E. 9th Street Des Moines, Iowa

At the hearings, persons will be asked to give their names and addresses for the record and to confine their remarks to the content of the proposed amendments. Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the DNR and request specific accommodations.

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

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.67, 481A.73, 481A.74, and 481A.76.

NATURAL RESOURCE COMMISSION[571](cont'd)

The following amendments are proposed.

ITEM 1. Amend rule 571—81.1(481A) as follows:

571—81.1(481A) Seasons, territories, daily bag limits, possession limits, and length limits.

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Rock Sturgeon	Closed	0	0	0	Same as inland waters
Shovelnose Sturgeon	Continuous	None	None	None	Same as inland waters except no harvest allowed in the Big Sioux River and aggregate daily bag limit 10, aggregate possession limit 20, in the Missouri River
Paddlefish*	Continuous	2	4	None	<u>Mississippi River—</u> Same as inland waters except for an open season and length limit <u>in the Mississippi River</u> <u>See; see below*</u> <u>Missouri and Big Sioux Rivers—Special regulations; see below*</u>
Yellow Perch	Continuous	25	50	None	Same as inland waters except no bag or possession limit in the Missouri River
Trout	Continuous	5	10	None*	Same as inland waters
Catfish*	Continuous	8 Lakes 15 Streams	30	None	Same as inland waters except no bag or possession limit in the Mississippi River
Black Bass (Largemouth Bass) (Smallmouth Bass) (Spotted Bass)	Continuous	3 In Aggregate	6	See below*	Continuous open season; aggregate daily bag limit 5, aggregate possession limit 10 See below*
Combined Walleye, Sauger and Saugeye	Continuous*	5*	10*	None*	Continuous open season; aggregate daily bag limit 6, aggregate possession limit 12; except aggregate daily bag limit 4, aggregate possession limit 8, in the Big Sioux and Missouri Rivers See below*
Northern Pike	Continuous*	3	6	None	Continuous open season; daily bag limit 5, possession limit 10; except daily bag limit 6, possession limit 12, in the Big Sioux River

NATURAL RESOURCE COMMISSION[571](cont'd)

KIND OF FISH	INLAND WATERS OF THE STATE				BOUNDARY RIVERS
	OPEN SEASON	DAILY BAG LIMIT	POSSESSION LIMIT	MINIMUM LENGTH LIMITS	MISSISSIPPI RIVER MISSOURI RIVER BIG SIOUX RIVER
Muskellunge or Hybrid Muskellunge	Continuous*	1	1	40"	Same as inland waters
Crappie	Continuous	25*	None	None	Same as inland waters except 50 in possession
Bluegill	Continuous	25*	None	None	Same as inland waters except in aggregate with pumpkinseed on the Mississippi River
All other fish species*	Continuous	None	None	None	See below*
Frogs (except Bullfrogs)	Continuous	48	96	None	Same as inland waters
Bullfrogs (<i>Rana Catesbeiana</i>)	Continuous	12	12	None	Same as inland waters

*Also see 571—81.2(481A), Exceptions.

ITEM 2. Amend subrule 81.2(1) as follows:

81.2(1) Exception closed season. In Lakes West Okoboji and East Okoboji and Spirit Lake, there shall be a closed season on walleye beginning February 15 each year. The annual opening for walleye in these three lakes shall be the first Saturday in May. In these three lakes there shall be ~~a closed an~~ an open season on muskellunge and tiger muskie ~~beginning December 1 each year. The annual opening for muskellunge and tiger muskie in these three lakes shall be May 21 the following year from May 21 through November 30.~~

ITEM 3. Amend subrule 81.2(3) as follows:

81.2(3) Walleye.

a. Lakes West Okoboji, East Okoboji, Spirit, Upper Gar, Minnewashta, and Lower Gar in Dickinson County, and Storm Lake in Buena Vista County, Clear Lake in Cerro Gordo County, and Big Creek Lake in Polk County. A 17-inch to 22-inch protected-slot length limit shall apply. Walleye less than 17 inches in length and walleye greater than 22 inches in length may be harvested. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

b. Clear Lake, Cerro Gordo County. A 14-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 22 inches in length may be taken per day.

c. Black Hawk Lake, Sac County. A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six.

d. Big Creek Lake, Polk County. A 15-inch minimum length limit shall apply. The daily bag limit shall be three, with a possession limit of six. No more than one walleye greater than 20 inches in length may be taken per day.

b. Length limits. Length limits shall apply on walleye in public waters that have length limits posted or published.

e. c. Mississippi River. A 15-inch minimum length limit shall apply. All walleye from 20 inches to 27 inches in length that are caught from Mississippi River Pools 12 through 20 must be immediately released alive. No more than one walleye greater than 27 inches in length may be taken per day from Pools 12 through 20.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 4. Amend subrule 81.2(4) as follows:

81.2(4) Paddlefish snagging is permitted in all waters of the state designated in rule 571—81.1(481A), except as follows:

a. There shall be no open season in ~~the any~~ Missouri River and Big Sioux River, ~~nor in any tributary of these streams~~ within 200 yards immediately upstream of its confluence ~~with the Missouri and Big Sioux Rivers~~.

b. Snagging for paddlefish on the Missouri and Big Sioux Rivers is limited to Iowa waters only, beginning in the Big Sioux River below the I-29 bridge to the Big Sioux River's confluence with the Missouri River and in the Missouri River, including all backwaters and sloughs, beginning at the Big Sioux River confluence and extending to the Hamburg Landing boat ramp.

(1) There shall be an open season from March 1 through April 15.

(2) Snagging hours are from sunrise to sunset.

(3) The bag limit is one paddlefish per paddlefish fishing license.

(4) The paddlefish fishing license quota is 950 for resident anglers and 50 for nonresident anglers. Licenses shall be issued on a first-come, first-served basis. The purchase period to obtain a paddlefish fishing license shall be from December 15 through January 31. No duplicate license or transportation tag shall be issued after the start of the season.

(5) Each angler who fishes for paddlefish on the Missouri and Big Sioux Rivers shall have a valid paddlefish fishing license and unused tag. Anglers possessing a paddlefish fishing license and unused tag shall snag fish for the purpose of catching paddlefish only. All snagged fish except for a legal paddlefish taken into possession shall immediately be released alive.

(6) Immediately upon an angler's taking into possession a legal paddlefish, a valid current year transportation tag issued with the license shall be visibly attached to the fish's lower jaw. The tag must be attached in such a manner that it cannot be removed without mutilating or destroying the tag. An angler shall not possess a paddlefish fishing license or transportation tag issued to another angler or tag a paddlefish with a transportation tag issued to another angler. The transportation tag shall be attached before the carcass can be moved in any manner from the place of harvest. The transportation tag shall remain affixed to the paddlefish until the paddlefish is processed for consumption. The paddlefish shall remain intact except for the snout in front of the eye until the fish reaches the final processing place. For the purposes of this subrule, the "final processing place" is defined as the angler's residence or the location where consumption occurs. The transportation tag shall be proof of possession of the carcass by the above-mentioned licensee. During the closed season, the possession of paddlefish on the Missouri and Big Sioux Rivers is prohibited unless the paddlefish are legally taken in Nebraska or South Dakota.

(7) No hooks larger than 5/0 treble or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging.

(8) A gaffe hook or other penetrating device may not be used as an aid in the landing of a snagged fish.

~~*b. c.*~~ *c.* Snagging for paddlefish on the Mississippi River is restricted to the area within 500 yards below the navigation dams and their spillways. No hooks larger than 5/0 treble or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. The open season on the Mississippi River is the period from March 1 through April 15.

~~*e. d.*~~ *d.* Snagging Except during the Missouri and Big Sioux Rivers open paddlefish fishing season, snagging for paddlefish is not permitted at any time in those areas where snagging is prohibited as a method of take as listed in subrule 81.2(11).

~~*d. e.*~~ *e.* On the Mississippi River, a 33-inch maximum length limit shall apply; any paddlefish measuring 33 inches or more when measured from the front of the eye to the natural unaltered fork of the tail must immediately be released alive. On the Missouri and Big Sioux Rivers, a 35-inch to 45-inch protected-slot limit shall apply; a paddlefish measuring 35 inches to 45 inches when measured from the front of the eye to the natural unaltered fork of the tail shall immediately be released alive. To measure a paddlefish, the angler shall use a flexible tape and measure along and over the center line contour of the fish while it is lying flat.

NATURAL RESOURCE COMMISSION[571](cont'd)

ITEM 5. Amend subrule 81.2(6) as follows:

81.2(6) Exception border lakes. In Little Spirit Lake, Dickinson County; Iowa and Tuttle (Okamanpedan) Lakes, Emmet County; Burt (Swag) Lake, Kossuth County; and Iowa Lake, Osceola County, the following ~~shall apply~~ species have a continuous open season and daily bag and possession limits as set forth below:

- a. Walleye—daily bag and possession limit ~~six~~ three;
- b. Northern pike—daily bag and possession limit three;
- c. Largemouth and smallmouth bass—daily bag and possession limit ~~six~~ three;
- d. Channel catfish—daily bag and possession limit eight. ~~Open season on the above fish shall be the Saturday nearest May 1 to February 15 each year.~~
- e. Yellow perch, ~~white bass, and sunfish~~—daily bag and possession limit 30, and crappie daily bag and possession limit 15. ~~There is a continuous open season on these species.~~ 25;
- f. Crappie species—combined daily bag and possession limit 25;
- g. Sunfish (bluegill, pumpkinseed, green sunfish, orangespotted sunfish, longear sunfish, warmouth, and hybrids)—combined daily bag and possession limit 25;
- h. White bass, yellow bass, bullhead, common carp, bowfin, suckers, sheepshead, buffalo, gar and quillback—no daily bag or possession limit;
- i. Muskellunge—daily bag and possession limit one. Open season shall be May 21 through November 30. A 40-inch minimum length limit shall apply on all border lakes;
- f.j. Spears and bow and arrow may be used to take carp, buffalo, ~~dogfish~~ bowfin, gar, sheepshead, and quillback carpsucker ~~from sunrise to sunset during the period from the first Saturday in May to February 15 each year in the above lakes.~~ with a continuous open season;
- k. All species not listed above are subject to the inland regulations of the state and have a continuous open season.

ITEM 6. Amend subrule 81.2(11) as follows:

81.2(11) Method of take. Artificial light may be used in the taking of any fish. The following species of fish may be taken by ~~hand fishing~~, snagging, spearing, and bow and arrow: common carp, bighead carp, grass carp, silver carp, black carp, bigmouth buffalo, smallmouth buffalo, black buffalo, quillback carpsucker, highfin carpsucker, river carpsucker, spotted sucker, white sucker, shorthead redhorse, golden redhorse, silver redhorse, sheepshead, shortnose gar, longnose gar, dogfish, gizzard shad, and goldfish. All other species of fish not hooked in the mouth, except paddlefish legally taken by snagging, must be returned to the water immediately with as little injury as possible. A fish is foul hooked when caught by a hook in an area other than in the fish's mouth. Snagging is defined as the practice of jerking any type of hook or lure, baited or unbaited, through the water with the intention of foul hooking fish. No hook larger than a 5/0 treble hook or measuring more than 1¼ inches in length when two of the hook points are placed on a ruler are permitted when snagging. Exceptions to snagging as a method of take are as follows:

- a. No snagging is permitted in the following areas:
 - 1- (1) Des Moines River from directly below Saylorville Dam to the Southeast 14th Street bridge in Des Moines.
 - 2- (2) Cedar River in Cedar Rapids from directly below the 5 in 1 Dam under I-380 to the 1st Avenue bridge.
 - 3- (3) Cedar River in Cedar Rapids from directly below the "C" Street Roller Dam to 300 yards downstream.
 - 4- (4) Iowa River from directly below the Coralville Dam to 300 yards downstream.
 - 5- (5) Chariton River from directly below Lake Rathbun Dam to 300 yards downstream.
 - 6- (6) Spillway area from directly below the Spirit Lake outlet to the confluence at East Okoboji Lake.
 - 7- (7) Northeast bank of the Des Moines River from directly below the Ottumwa Dam, including the catwalk, to the Jefferson Street Bridge. Snagging from the South Market Street Bridge is also prohibited.

NATURAL RESOURCE COMMISSION[571](cont'd)

~~8. (8)~~ Missouri River and the Big Sioux River from the I-29 bridge to the confluence with the Missouri River with the exception of snagging paddlefish and for only paddlefish during the open season.

~~9. (9)~~ Des Moines River from directly below the Hydroelectric Dam (Big Dam) to the Hawkeye Avenue Bridge in Fort Dodge.

~~10. (10)~~ Des Moines River from directly below the Little Dam to the Union Pacific Railroad Bridge in Fort Dodge.

~~11. Clear Lake and Ventura Marsh from the Ventura Grade, Jetty and Bridge.~~

~~12. (11)~~ Skunk River from directly below Oakland Mills Dam to the downstream end of the 253rd Street boat ramp.

b. No snagging, bow and arrow fishing, or spearing of fish is permitted in the following areas:

(1) Clear Lake and Ventura Marsh from the Ventura Grade, Jetties and Bridge.

(2) Lost Island Lake Inlet within 300 feet of the concrete culvert and metal fish barrier.

(3) Lost Island Lake Outlet within 300 feet of the outlet structure and metal fish barrier.

(4) Barringer Slough Outlet within 300 feet of the outlet and metal fish barrier.

(5) The outlet area of Lower Gar Lake beginning at 230th Avenue and extending downstream to the signed Iowa Great Lakes Sanitary District property line.

ITEM 7. Adopt the following **new** rule 571—81.3(481A):

571—81.3(481A) Trotlines and throw lines.

81.3(1) *Where permitted.* It shall be lawful to use trotlines or throw lines in all rivers and streams of the state, except in Mitchell, Howard, Winneshiek, Allamakee, Fayette, Clayton, Delaware, Dubuque, and Jackson Counties. Trotlines or throw lines may be used in the above nine counties in the following stream segments: Mississippi River; Maquoketa River, mouth to Backbone State Park Dam; North Fork Maquoketa River, mouth to Jones-Dubuque County line; Turkey River, mouth to the Elkader Dam; and Upper Iowa River, mouth to the first dam upstream in Winneshiek County.

81.3(2) *Removal of lines.* All trotlines and parts thereof shall be removed from the shore when they are not being actively fished. A trotline shall be considered actively fished if at least once daily the trotline is left with at least one baited hook in the water.

ITEM 8. Rescind and reserve **571—Chapter 85.**

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NURSING BOARD[655]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code sections 17A.3 and 147.76, the Board of Nursing hereby gives Notice of Intended Action to amend Chapter 3, “License to Practice—Registered Nurse/Licensed Practical Nurse,” Iowa Administrative Code.

The proposed amendments:

1. Clarify the definition of “Applicant.”
2. Update advanced registered nurse practitioner (ARNP) language to:
 - Remove the reference to registration and replace it with renewal or licensure.
 - Include ARNP reactivation fees.
 - Include ARNP verification.
3. Update mandatory licensure language.
4. Revise the applicant requirements and the application and examination processes to:

NURSING BOARD[655](cont'd)

- Clarify documents required for the determination of applicant eligibility.
- Replace “sentencing order” with “court documents.”
- Replace “criminal conviction” with “criminal history.”
- Clarify that the passing standard of the NCLEX® examinations is established by the National Council of State Boards of Nursing (NCSBN).
 - Clarify time lines when applicants may take the examination and when fees will be imposed.
 - Revise language concerning foreign applicants to:
 - Clarify eligibility documents.
 - Update TOEFL passing scores.
 - Clarify that practice is not allowed without successful completion of the examination.
 - Clarify the process for testing modification requests.
 - Clarify the reexamination process.
 - Clarify the process to sit for an examination when an applicant previously applied but did not sit for the examination.
- 5. Clarify the licensure by endorsement process, forms required and timing.
- 6. Clarify licensee obligation to report name and address changes.
- 7. Clarify renewal process requirements and timing.
- 8. Clarify mandatory reporter training requirements for renewal.
- 9. Clarify reactivation requirements and timing.
- 10. Update license denial processes.

Any interested person may make written comments or suggestions on or before September 23, 2014. Such written materials should be directed to the Executive Director, Iowa Board of Nursing, RiverPoint Business Park, 400 S.W. 8th Street, Suite B, Des Moines, Iowa 50309-4685; or e-mail comments to rules.comments@iowa.gov. Persons who wish to convey their views orally should contact the Executive Director at (515)281-3256, or in the Board office at 400 S.W. 8th Street, by appointment.

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

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

This amendment is intended to implement Iowa Code chapters 17A, 147, 152, and 272C.

The following amendment is proposed.

Amend **655—Chapter 3** as follows:

CHAPTER 3

LICENSURE TO PRACTICE—REGISTERED NURSE/LICENSED PRACTICAL NURSE

655—3.1(17A,147,152,272C) Definitions.

“*Accredited or approved nursing program*” means a nursing education program whose status has been recognized by the board or by a similar board in another jurisdiction that prepares individuals for licensure as a licensed practical nurse, registered nurse, or ~~registration as an~~ advanced registered nurse practitioner; or grants a baccalaureate, master’s or doctorate degree with a major in nursing.

“*Address*” means a street address in any state when a street address is available or a rural route address when a street address is not available.

“*Applicant*” means a person who is qualified to take the examination or apply for licensure by endorsement.

“*Endorsement*” means the process by which a registered nurse/licensed practical nurse licensed in another jurisdiction becomes licensed in Iowa.

“*Examination*” means ~~any~~ of the tests used to determine minimum competency prior to the issuance of a registered nurse/licensed practical nurse license.

“*Fees*” means those fees collected which are based upon the cost of sustaining the board’s mission to protect the public health, safety and welfare. The nonrefundable fees set by the board are as follows:

NURSING BOARD[655](cont'd)

1. Application for original license based on the registered nurse examination, \$93 (plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI)).

2. Application for original license based on the practical nurse examination, \$93 (plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks by the DCI and the FBI).

3. Application for registered nurse/licensed practical nurse license by endorsement, \$119 (plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks by the DCI and the FBI).

4. Application for ~~registration~~ original license or renewal as an advanced registered nurse practitioner, \$81 for any ~~length of registration~~ period of licensure up to three years.

5. For a certified statement that a registered nurse/licensed practical nurse is licensed in this state or registered as an advanced registered nurse practitioner, \$25.

6. For written verification of licensure status, not requiring certified statements, \$3 per license.

7. For reactivation of a license to practice as a registered nurse/licensed practical nurse, \$175 for a license lasting more than 24 months up to 36 months (plus the fee for evaluation of the fingerprint ~~packet~~ cards and the criminal history background checks by the DCI and the FBI).

8. For reactivation of a license to practice as an advanced registered nurse practitioner, \$81 for any period of licensure up to three years.

~~8.~~ 9. For the renewal of a license to practice as a registered nurse/licensed practical nurse, \$99 for a three-year period.

~~9.~~ 10. For a duplicate or reissued wallet card or original certificate to practice as a registered nurse₂, licensed practical nurse, or ~~registration card or original certification to practice as an~~ advanced registered nurse practitioner, \$20.

~~10.~~ 11. For late renewal of a registered nurse/licensed practical nurse license, \$50, plus the renewal fee as specified in paragraph “~~8~~ 9” of this ~~rule~~ definition.

~~11.~~ 12. For a check returned for any reason, \$15. If licensure/registration has been issued by the board office based on a check for the payment of fees and the check is later returned by the bank, the board shall request payment by certified check or money order.

~~12.~~ 13. For a certified copy of an original document, \$20.

~~13.~~ 14. For special licensure, \$62.

~~14.~~ 15. ~~Fee for~~ For the evaluation of the fingerprint ~~packet~~ cards and the DCI and FBI criminal history background checks, \$50.

“*Inactive license*” means a registered nurse or licensed practical nurse license that has been placed on inactive status because it was not renewed by the fifteenth day of the month following the expiration date, or the board has received notification that a licensee has declared another compact state as primary state of residency. Pursuant to 655—subrule ~~16.2(4)~~ 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

“*Late license*” means a registered nurse or licensed practical nurse license that has not been renewed by the expiration date on the wallet card. The time between the expiration date and the fifteenth day of the month following the expiration date is considered a grace period.

“*Licensee*” means a person who has been issued a ~~certificate~~ license to practice as a registered nurse₂, or licensed practical nurse or advanced registered nurse practitioner under the laws of this state.

“*NCLEX®*” means National Council Licensure Examination for registered nurse/licensed practical nurse licensure.

“*Overpayment*” means payment in excess of the required fee. Overpayment less than \$10 received by the board shall not be refunded.

“*Reactivation*” means the process whereby an inactive licensee obtains a current license.

“*Reinstatement.*” pursuant to rule 655—4.11(17A,147,152,272C), means the process by which any person whose license to practice nursing has been suspended, revoked or voluntarily surrendered by order of the board may apply for license consideration.

NURSING BOARD[655](cont'd)

“*Temporary license*” means a license issued on a short-term basis for a specified time pursuant to subrule ~~3.5(3)~~ 3.5(4).

“*Unlicensed student*” means a person enrolled in a nursing education program who has never been licensed as a registered nurse or licensed practical/vocational nurse in any U.S. jurisdiction.

“*Verification*” means the process whereby the board provides a certified statement that the license of a registered nurse/licensed practical nurse/advanced registered nurse practitioner is active, inactive, or encumbered/disciplined, ~~or an advanced registered nurse practitioner is registered in this state.~~

This rule is intended to implement Iowa Code ~~section~~ sections 147.80 and 147.82.

655—3.2(17A,147,152,272C) Mandatory licensure.

3.2(1) A person who practices nursing in the state of Iowa as defined in Iowa Code section 152.1, outside of one’s immediate family, shall have a current Iowa license, whether or not the employer is in Iowa and whether or not the person receives compensation. Any nurse who participates in the care of a patient situated in Iowa, whether that care is provided through telephonic, electronic or in-person means, and regardless of the location of the nurse, must obtain Iowa licensure unless specifically exempted by the licensure compact agreement. The nurse shall maintain ~~a copy of the license~~ verification of licensure and shall have it available for inspection when engaged in the practice of nursing in Iowa.

3.2(2) Current Iowa licensure is not mandatory when:

a. A nurse who resides in another party state is recognized for licensure in this state pursuant to the nurse licensure compact contained in Iowa Code chapter 152E. The nurse shall maintain ~~a copy of the license~~ verification of licensure and shall have it available for inspection when engaged in the practice of nursing in Iowa.

b. A nurse who holds an active license in another state provides services to patients in Iowa only during interstate transit.

c. A nurse who holds an active license in another state provides emergency services in an area in which the governor of Iowa has declared a state of emergency.

3.2(3) A nurse who is enrolled in an approved nursing program shall hold an active license in the U.S. jurisdiction(s) in which the nurse provides patient care. ~~An individual from another country who is enrolled in a course of study for registered nurses or licensed practical nurses shall hold an active license in the U.S. jurisdiction(s) in which the individual provides patient care.~~

This rule is intended to implement Iowa Code section 147.2.

655—3.3(17A,147,152,272C) ~~Qualifications for licensure~~ Licensure qualifications for registered nurse and licensed practical nurse.

3.3(1) Applicants shall meet the requirements set forth in Iowa Code sections 147.3 and 152.7. Requirements include:

a. Graduation from an approved nursing program preparing registered nurses as defined in Iowa Code section 152.5(1) for registered nurse applicants or graduation from an approved nursing program preparing practical nurses as defined in Iowa Code section 152.5(1) for licensed practical nurse applicants. ~~Theory and clinical experience shall include medical nursing, surgical nursing, obstetric nursing and nursing of children. Registered nurse applicants shall additionally have completed theory and clinical experience in psychiatric nursing.~~

b. Passing NCLEX® or the State Board Test Pool Examination, the national examination used prior to 1982.

c. Board approval of an applicant with a criminal ~~conviction~~ history or a record of prior disciplinary action, regardless of jurisdiction.

3.3(2) The requirement listed in paragraph 3.3(1) “*b*” is subject to the following exceptions:

a. A practical nurse applicant must have written the same examination as that administered in Iowa and achieved a score established as passing for that test by the board unless the applicant graduated and was licensed prior to July 1951.

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b. An applicant whose national examination scores do not meet the Iowa requirements in effect at the time of the examination and who wishes to become licensed in Iowa may appeal to the board. The board may require the applicant to pass the current examination.

This rule is intended to implement Iowa Code sections 147.2 and 152.7(3).

655—3.4(17A,147,152,272C) Licensure by examination.

3.4(1) Applicants shall meet qualifications for licensure set forth in subrule 3.3(1).

3.4(2) The board contracts with the National Council of State Boards of Nursing, Inc. to use the NCLEX® for registered nurses and licensed practical nurses.

~~*a.* The passing standard for the NCLEX® is determined by the board. The NCLEX® is administered according to guidelines and passing standards established by the National Council of State Boards of Nursing, Inc.~~

b. NCLEX® results are reported as pass or fail.

~~*e.* The NCLEX® is administered according to guidelines set forth by the National Council of State Boards of Nursing, Inc.~~

~~*c.* Examination statistics are available to the public.~~

3.4(3) Application—graduates of board-approved programs.

a. The board shall:

(1) Provide information about licensure application to applicants, nursing education programs in Iowa, and others upon request.

(2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, ~~and notification of NCLEX® registration~~ fingerprints and a signed waiver form.

b. The applicant shall:

(1) Submit a completed application for license by examination.

(2) Submit two completed ~~sets of the fingerprint packet cards~~ fingerprints and a signed waiver form to facilitate a national criminal history background check. The fee for the evaluation of the fingerprint ~~packet cards~~ and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Register for the NCLEX® and submit registration fee to the national test service agency.

(5) Direct the nursing program to submit to the board an official nursing transcript denoting the ~~date of entry~~, date of graduation, and diploma or degree conferred.

(6) Inform the board that the primary state of residence is Iowa or a noncompact state and provide a current street address and mailing address, if different.

(7) Submit a copy of ~~a sentencing order(s)~~ the court document(s) with the license application if ~~an~~ the applicant has a criminal ~~conviction~~ history.

~~(8) Self-schedule the examination at an approved testing center. Applicants who do not test within 91 days of authorization are required to submit a new application and fee to the board.~~

(8) Complete NCLEX® registration through the national test service agency within 12 months of board receipt of the application for license, fingerprint cards, signed waiver form and fees. The board reserves the right to destroy documents after 12 months.

~~(9) Complete NCLEX® registration within 12 months of board receipt of the application for license, fingerprint packet and fees. The board reserves the right to destroy documents after 12 months.~~

(9) Self-schedule the examination with an approved testing center.

(10) Applicants who do not test within 91 days of authorization from the national test service agency are required to submit a new application and fee to the board.

3.4(4) Application—individuals educated and licensed in another country.

a. The board shall:

(1) Provide information about licensure application to applicants and others upon request.

(2) Determine eligibility of each applicant upon receipt of:

1. Application for ~~licensure~~ license by examination.

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2. Two completed ~~sets of the fingerprint packet cards~~ cards and a signed waiver form to facilitate a national criminal history background check.

3. Application fee for license by examination plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

~~4. Notification of NCLEX® registration.~~

~~5.~~ 4. Official nursing transcript denoting ~~date of entry and~~ date of graduation validated by the Commission on Graduates of Foreign Nursing Schools (CGFNS) International.

~~6.~~ 5. Validation of licensure/registration in the original country by CGFNS International.

~~7.~~ 6. ~~Full education course-by-course~~ Credentials Evaluation Service Professional report submitted by CGFNS International for licensed practical nurse and registered nurse applicants.

~~8.~~ 7. Verification of ability to read, write, speak and understand the English language as determined by the results of the International English Language Testing System (IELTS), Pearson Test of English Academic (PTE), or Test of English as a Foreign Language (TOEFL) for licensed practical nurse and registered nurse applicants. Applicants shall be exempt from the IELTS, PTE or TOEFL examination when the native language is English; nursing education was completed in a college, university or professional school located in Australia, Barbados, Canada (except Quebec), Ireland, Jamaica, New Zealand, South Africa, Trinidad and Tobago or the United Kingdom; language of instruction in the nursing program was English; and language of the textbooks in the nursing program was English.

b. The applicant shall:

(1) Submit completed application for license by examination, including two ~~sets of the completed fingerprint packet cards~~ and a signed waiver form to facilitate a national criminal history background check.

(2) Submit fee for application for license by examination plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(3) Register for the NCLEX® and submit registration fee to the national test service agency.

(4) Direct CGFNS International to validate the official nursing transcript.

(5) Direct CGFNS International to validate licensure/registration in the original country.

(6) Complete the ~~full education course-by-course~~ Credentials Evaluation Service Professional report application ~~of the through~~ CGFNS Credentials Evaluation Service (CES) International for licensed practical nurse and registered nurse applicants.

(7) Complete IELTS, PTE or TOEFL requirements for licensed practical nurse and registered nurse applicants, unless exempt.

(8) Inform the board of primary state of residence and a current mailing street address and mailing address, if different.

(9) Submit a copy of a ~~sentencing order(s)~~ the court document(s) with the license application if ~~an~~ the applicant has a criminal ~~conviction~~ history.

(10) Self-schedule the examination ~~at with~~ an approved testing center. ~~Applicants who do not test within 91 days of authorization are required to submit a new application and fee to the board.~~

(11) Complete NCLEX® registration through the national test service agency within 12 months of board receipt of the application for license, fingerprint packet cards, signed waiver form and fees. The board reserves the right to destroy documents after 12 months.

(12) Applicants who do not test within 91 days of authorization from the national test service agency are required to submit a new application and fee to the board.

3.4(5) Application—individuals with disabilities. Individuals with disabilities as defined in the Americans with Disabilities Act shall be provided modifications ~~in~~ during the NCLEX® ~~or~~ NCLEX® administration.

a. The board shall:

(1) Notify applicants of the availability of test modifications for individuals with documented disabilities.

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(2) Upon request, notify applicants of the process for obtaining board approval of test modification as defined in paragraph 3.4(5) "b."

(3) Determine eligibility for test modification upon receipt of:

1. Written request from the applicant for test modifications ~~in~~ during the NCLEX® ~~or~~ NCLEX® administration.

2. Written documentation of the applicant's disability and need for test modifications, including results of appropriate diagnostic testing ~~when appropriate~~, submitted by a qualified professional with expertise in the area of the diagnosed disability, ~~or interpretation of results~~.

3. Written documentation of test modifications ~~provided~~, if any, granted to the applicant while enrolled in the nursing education program, ~~if applicable~~.

b. The applicant shall:

(1) Submit to the board a written request for specific modifications ~~in~~ during the NCLEX® ~~or~~ NCLEX® administration.

~~(2) Direct a qualified professional with expertise in the area of the diagnosed disability or interpretation of test results to submit to the board written documentation of the applicant's disability and need for specific test modifications, including the history of the disability and results of diagnostic testing.~~

(2) Obtain appropriate documentation supporting the request for accommodations, including results of appropriate diagnostic testing, submitted by a qualified professional with expertise in the areas of the diagnosed disability. Documentation could include recent reports, test results, evaluations and assessments of the candidate's need for accommodations due to a disability (physical or mental impairment) that substantially limits one or more major life activities.

~~(3) Direct the nursing program to submit to the board documentation of test modifications provided to the applicant while enrolled in the nursing education program, if applicable any were granted.~~

~~(4) Complete examination application requirements defined in subrule 3.4(3) or 3.4(4).~~

3.4(6) Reexamination.

a. An applicant who has graduated from an approved practical nurse program and has failed the NCLEX-PN® is eligible to take the NCLEX-PN® an indefinite number of times.

b. An applicant who has graduated from an approved registered nurse program and has failed the NCLEX-RN® is eligible to take the NCLEX-RN® an indefinite number of times.

~~c. An applicant who fails the NCLEX® and reapplies for license by examination shall be required to complete application for license by examination, submit the fee for application by examination, complete NCLEX® registration and submit a registration fee to the national test service. Two sets of the completed fingerprint packet, plus the fee identified in the definition of "fees" in rule 655—3.1(17A,147,152,272C), are required if 12 months have passed since the previous criminal history background check.~~

c. An applicant who fails the NCLEX® and reapplies within 12 months for license by examination shall be required to complete an application for license by examination, submit the fee for application by examination, complete NCLEX® registration and submit a registration fee to the national test service agency.

d. An applicant who fails the NCLEX® and reapplies, after 12 months have passed, for license by examination shall be required to complete an application for license by examination, submit two completed fingerprint cards, a signed waiver form, and the fee for evaluation of the fingerprint cards and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI), pursuant to rule 655—3.1(17A,147,152,272C), complete NCLEX® registration and submit a registration fee to the national test service agency.

e. Applicants for the examination who do not appear for the appointment or do not complete the examination will be required to complete the examination requirements defined in paragraphs 3.4(6) "a" to "d."

3.4(7) Certificate of license by examination. Upon completion of the relevant qualifications for license by examination and passing of the NCLEX® as defined in these rules, the board shall issue a certificate of license by examination and a current license to practice as a registered nurse/licensed

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practical nurse. The board staff may issue a certificate of license ~~pending~~ prior to receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.36, 147.80 and 152.7(3).

655—3.5(17A,147,152,272C) Licensure by endorsement.

3.5(1) *Qualifications for licensure by endorsement.* The endorsee shall meet the qualifications for licensure defined in subrule 3.3(1).

3.5(2) *Applicants currently licensed in another state.* Application for licensure to practice as a registered nurse or licensed practical nurse by endorsement shall be made according to the following process:

a. The board shall:

- (1) Provide application forms and instructions to applicants upon request.
- (2) Determine eligibility of each applicant upon receipt of an application, fees, official nursing transcript, and verification of license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®).

b. The applicant shall:

- (1) Submit a completed application form for license by endorsement.
- (2) Submit ~~two sets of the completed fingerprint packet cards~~ and a signed waiver form to facilitate a national criminal history background check. The fee for the evaluation of the ~~fingerprint packet cards~~ and the DCI and FBI criminal history background checks will be assessed to the applicant.

(3) Submit the fee for license by endorsement plus the fee for evaluation of the ~~fingerprint packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(4) Direct the nursing program to submit to the board an official nursing transcript denoting the ~~date of entry~~, date of graduation and diploma or degree conferred.

~~(5) Submit the application form for verification of original licensure. If the original state of licensure participates in the National Council of State Boards of Nursing, Inc. Electronic Nurse Licensure System (NURSYS), send form and application fee directly to the National Council of State Boards of Nursing, Inc.~~

(5) Provide verification of state of original licensure by one of the following:

1. Submit the application form for verification of original licensure to state of original licensure.
2. Apply directly to the online verification system (NURSYS®) if the original state of licensure participates in NURSYS®.

~~(6) Submit evidence attesting~~ Attest that Iowa is the primary state of residence if the applicant is changing primary state of residence from another party state as outlined in rule 655—16.2(~~452~~ 152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.

(7) Complete the application process within 12 months from the date of receipt of the application. The board reserves the right to destroy the documents after 12 months.

c. An endorsement applicant who has been disciplined by a licensing authority in another state must indicate the jurisdiction of the action(s) when submitting application materials. A copy of all relevant disciplinary documents will be obtained for board review prior to a determination regarding licensure. The board may impose conditions for licensure.

d. An endorsement applicant who has a criminal ~~conviction~~ history must submit a copy of the ~~sentencing order~~ court document(s) when submitting application materials. The board may impose conditions for licensure.

~~*e.* A license shall not be issued to an~~ An applicant who fails to complete the licensure process within 12 months from the date of receipt of the application must reapply.

3.5(3) *Application—individuals educated and licensed in another country.*

a. The board shall:

- (1) Provide application forms and instructions to applicants upon request.
- (2) Determine eligibility of each applicant upon receipt of an application, two completed fingerprint packet cards and a signed waiver form, fees, official nursing transcript denoting ~~date of entry~~

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and date of graduation validated by ~~the Commission on Graduates of Foreign Nursing Schools (CGFNS) International~~, validation of licensure/registration in the original country by ~~CGFNS International~~, ~~full education course-by-course~~ Credentials Evaluation Service Professional report from CGFNS International, and verification of original license submitted by state of original license or the National Council of State Boards of Nursing, Inc., electronic nurse licensure system (NURSYS®).

b. The applicant shall:

(1) Submit completed application for licensure by endorsement, including two ~~sets of the~~ completed fingerprint ~~packet cards~~ and a signed waiver form to facilitate a national criminal history background check.

(2) Submit fee for application for licensure by endorsement plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C). All fees are nonrefundable.

(3) Direct CGFNS ~~International~~ to validate the official nursing transcript.

(4) Direct CGFNS ~~International~~ to validate licensure/registration in the original country.

(5) ~~Apply for Complete the full education course-by-course~~ Credentials Evaluation Service Professional report application of the through CGFNS ~~Credentials Evaluation Service (CES) International~~ for licensed practical nurse and registered nurse applicants, or direct CGFNS ~~International~~ to verify that a certificate letter was issued, or send the completed ~~CES Credentials Evaluation Service Professional report~~ to the board.

(6) Inform the board of primary state of residence and a current mailing street address and mailing address, if different.

(7) Submit a copy of a ~~sentencing order(s)~~ the court document(s) with the license application if an applicant has a criminal ~~conviction~~ history.

3.5(4) Temporary license. A temporary license shall be issued to an applicant who is licensed in another state if the applicant meets the qualifications for a license as outlined in subrule 3.3(1). The application form and endorsement fee plus the fee for evaluation of the fingerprint ~~packet cards~~ and the criminal history background checks as identified in the definition of “fees” in rule 655—3.1(17A,147,152,272C), verification of license form and two ~~sets of the~~ completed fingerprint ~~packet cards~~ and signed waiver form to facilitate a national criminal history background check shall be on file in the office of the board prior to the issuance of the temporary license.

a. A temporary licensee may use the appropriate title of registered nurse or licensed practical nurse and the appropriate abbreviation R.N. or L.P.N.

b. The temporary wallet card must be signed by the licensee to be valid. The temporary license shall be issued for a period of 30 days. A second temporary license may be issued for a period not to exceed 30 days or at the discretion of the executive director.

c. A temporary license ~~shall~~ may be issued to an applicant who has incurred disciplinary action in another state when the license is not currently encumbered.

d. A temporary license ~~shall~~ may not be issued to an applicant with a criminal ~~conviction~~ history.

e. A temporary license shall not be issued to an applicant educated and licensed in another country until the ~~full education course-by-course report application of the~~ CGFNS ~~Credentials Evaluation Service (CES) Credentials Evaluation Service Professional report application through~~ CGFNS ~~International~~ has been received by the board, CGFNS ~~International~~ has verified that a certificate letter was issued, or CGFNS ~~International~~ submits a previously completed CES Credentials Evaluation Service Professional report has been sent to the board.

3.5(5) Certificate of license by endorsement. Upon completion of the endorsement procedures defined in these rules, the board shall issue a certificate of license by endorsement and a current license to practice as a registered nurse/licensed practical nurse. The board staff may issue a certificate of license pending prior to receipt of a report on the applicant from the DCI/FBI.

This rule is intended to implement Iowa Code sections 147.2 and 152.9.

655—3.6(17A,147,152,272C) Special licensure for those licensed in another country. A special license may be granted by the board on an individual basis to allow a nurse licensed in another country

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who is not eligible for endorsement to practice nursing in Iowa for a fixed period of time under certain conditions. Special licensure shall allow the nurse to provide care in a specialty area, provide consultation or teaching where care is directed, serve as a research or teaching assistant, or obtain clinically based continuing education.

1. Upon request, the board shall provide application materials to the applicant or sponsor.
2. The applicant shall provide identifying information, ~~history of criminal conviction~~ history, history of licensure in another jurisdiction, and reason for special licensure.
3. The applicant shall complete the application, submit a fee as identified in rule 655—3.1(17A,147,152,272C), and provide evidence of certification by ~~the Commission on Graduates of Foreign Nursing Schools (CGFNS) International, or a Test of English as a Foreign Language (TOEFL)~~ official results of the TOEFL test or official results of the International English Language Testing System (IELTS). The applicant shall have a minimum score of at least 500 540 for the paper-based TOEFL test, a minimum score of 207 or 173 for the computer-based TOEFL test, or a minimum score of 83 for the Internet-based TOEFL test. The applicant shall score a minimum of 6.5 for the IELTS test.
4. Board staff shall determine the validity of the request based on the need, duration and location of special licensure identified on the application, and staff shall notify the applicant of ineligibility for special licensure if the application is incomplete or indicates a criminal ~~conviction~~ history or evidence of licensure in another jurisdiction.
5. The board shall grant special licensure to eligible applicants. The license shall be identified as a special license and identify duration and conditions as designated in this rule. The period of special licensure shall be determined by the board and may be extended at the request of the applicant.
6. If the board denies special licensure, the individual may be eligible for licensure by examination in ~~accord~~ accordance with subrule 3.4(4).
7. The licensee shall be subject to all rules and regulations promulgated by the board except those pertaining to verification, renewal, late renewal, inactivation, reactivation and continuing education requirements.

This rule is intended to implement Iowa Code section 147.2.

655—3.7(17A,147,152,272C) License cycle.

3.7(1) Name and address changes. Written notification to the board of name and address changes is ~~mandatory as defined in Iowa Code section 147.9~~ required within 30 days of the event. Licensure documents are mailed to the licensee at the address on file in the board office. There is no fee for a change of name or address in board records.

3.7(2) New licenses. The board shall issue licenses by endorsement and examination for a 24- to 36-month period. When the license is renewed, it will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the birth month.

3.7(3) Renewal. ~~At least 60 days prior to expiration of the license, the~~ The licensee may renew the license online at the board's Web site beginning 60 days prior to license expiration. Renewal applications are also available by mail upon request. Renewal is available online at the board's Web site or by mail upon request. When the licensee has satisfactorily completed the requirements for renewal, a wallet card shall be mailed to the licensee.

a. ~~The required materials and the renewal fee as specified in rule 655—3.1(17A,147,152,272C) are to be submitted to the board office 30 days before license expiration. The licensee shall:~~

(1) Attest that Iowa is the primary state of residence as outlined in rule 655—16.2(152E) or that the primary state of residence is a noncompact state. The board may request evidence of residency.

(2) Submit the renewal application and the renewal fee as specified in rule 655—3.1(17A,147,152,272C).

(3) Meet the continuing education requirement as set forth in 655—Chapter 5, prior to license renewal.

(4) Complete the required mandatory reporter training set forth in paragraph 3.7(3)“b.”

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~~b.~~ When the licensee has satisfactorily completed the requirements for renewal 30 days before expiration of the previous license, a renewal wallet card shall be mailed to the licensee before expiration of the previous license.

~~b.~~ Mandatory reporter training.

~~(1)~~ The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

~~e.~~ (2) A licensee who regularly examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in ~~paragraph "g."~~ subparagraph 3.7(3) "b"(6).

~~d.~~ (3) A licensee who regularly examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for rule suspension as identified in ~~paragraph "g."~~ subparagraph 3.7(3) "b"(6).

~~e.~~ (4) A licensee who regularly examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training on abuse identification and reporting in dependent adults and children or condition(s) for rule suspension as identified in ~~paragraph "g."~~ subparagraph 3.7(3) "b"(6). Training may be completed through separate courses as identified in ~~paragraphs "e"~~ subparagraphs 3.7(3) "b"(2) and "d" (3) or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. ~~The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.~~

~~f.~~ (5) The licensee shall maintain written documentation for five years after mandatory training as identified in ~~paragraphs "e"~~ subparagraphs 3.7(3) "b"(2) to "e," (4), including program date(s), content, duration, and proof of participation.

~~g.~~ (6) The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

~~(1)~~ 1. Is engaged in active duty in the military service of this state or the United States.

~~(2)~~ 2. Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including waiver of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 655—Chapter 5.

~~h.~~ (7) The board may select licensees for audit of compliance with the requirements in ~~paragraphs "e"~~ subparagraphs 3.7(3) "b"(1) to "g." (6).

3.7(4) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in rule 655—3.1(17A,147,152,272C).

To renew a late license, the licensee shall complete the renewal requirements and submit the late fee before the fifteenth day of the month following the expiration date on the wallet card.

3.7(5) Inactive status. The license shall become inactive when the license has not been renewed by the fifteenth day of the month following the expiration date on the wallet card or the board office has been notified by another compact state that a licensee has declared a new primary state. Pursuant to 655—subrule ~~16.2(4)~~ 16.2(8), the former home state license shall no longer be valid upon the issuance of a new home state license.

a. If the inactive license is not reactivated, it shall remain inactive.

b. If the licensee resides in Iowa or a noncompact state, the licensee shall not practice nursing in Iowa until the license is reactivated to active status. If the licensee is identified as practicing nursing with an inactive license, disciplinary proceedings shall be initiated.

c. The licensee is not required to obtain continuing education credit or pay fees while the license is inactive.

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d. To reactivate the license, the licensee shall ~~contact the board office~~ complete the reactivation requirements.

(1) The licensee shall be provided an application, a continuing education report form, two fingerprint packet cards, a waiver form, and statement of the fees. The reactivation fee and criminal history background check fee are specified in the definition of “fees” in rule 655—3.1(17A,147,152,272C).

(2) The licensee shall have obtained 12 contact hours of continuing education, as specified in 655—Chapter 5, within the 12 months prior to reactivation.

(3) Upon receipt of the completed reactivation application, required continuing education materials, ~~two sets of the completed fingerprint packet cards and a signed waiver form~~ to facilitate a national criminal history background check, fees for both the reactivation and the criminal history background check and verification that the primary state of residence is Iowa or a noncompact state, the licensee shall be issued a license for a 24- to 36-month period. At the time of the next renewal, the license will be placed on a three-year renewal cycle. Expiration shall be on the fifteenth day of the licensee’s birth month. The board staff may issue a certificate of license pending prior to receipt of a report on the applicant from the DCI/FBI.

(4) An applicant who fails to complete the reactivation of licensure process within 12 months from the date of application must reapply. All fees are nonrefundable.

3.7(6) Duplicate wallet card or certificate. A duplicate wallet card or certificate shall be required if the current card or certificate is lost, stolen, destroyed or not received by the licensee within 60 days from the date the license is issued. The licensee shall be issued a duplicate wallet card or certificate upon receipt of an application for a duplicate wallet card or certificate and receipt of the fee as specified in rule 655—3.1(17A,147,152,272C). If the licensee notifies the board that the wallet card or certificate has not been received within 60 days after being issued, no fee shall be required. A fee is applicable when the licensee fails to notify the board of a name or address change.

3.7(7) Reissue of a certificate or wallet card. The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in rule 655—3.1(17A,147,152,272C). No fee shall be required if an error was made by the board on the original document.

This rule is intended to implement Iowa Code sections 147.2 and 147.9 to 147.11.

655—3.8(17A,147,152,272C) Verification. Upon written request from the licensee or another jurisdiction and payment of the verification fee as specified in rule 655—3.1(17A,147,152,272C), the board shall provide a certified statement to another jurisdiction or entity that the license of a registered nurse₂, licensed practical nurse or advanced registered nurse practitioner is active, inactive or encumbered/disciplined in Iowa.

This rule is intended to implement Iowa Code sections 147.2 and 147.8.

655—3.9(17A,272C) License denial.

~~**3.9(1)** An applicant who has been denied licensure by the board may appeal the decision and request a hearing on related issues. A notice of appeal and request for hearing must be served upon the board within 30 days following the date the notification of licensure denial was mailed to the applicant. The request for hearing shall specifically delineate the facts to be contested at hearing.~~

3.9(1) Prior to the denial of licensure to an applicant, the board shall issue a preliminary notice of denial that cites the factual and legal basis for denying the application, notifies the applicant of the appeal process and specifies the date upon which the denial will become final if not appealed.

~~**3.9(2)** All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 4.~~

3.9(2) An applicant who has been issued a preliminary notice of denial may appeal the notice and request a hearing on the issues related to the preliminary notice of denial by serving a request for hearing upon the executive director within 30 days following the date the preliminary notice of denial was mailed.

NURSING BOARD[655](cont'd)

The request for hearing shall specify the factual or legal errors in the preliminary notice of denial and provide any additional written information or documents in support of the licensure.

3.9(3) All hearings held pursuant to this rule shall be held in accordance with the process outlined in 655—Chapter 4.

3.9(4) If an applicant does not appeal a preliminary notice of denial, the preliminary notice of denial automatically becomes final and a notice of denial will be issued.

This rule is intended to implement Iowa Code chapters 17A and 272C.

ARC 1570C

PUBLIC EMPLOYMENT RELATIONS BOARD[621]

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 20.6(5), the Public Employment Relations Board hereby gives Notice of Intended Action to amend Chapter 1, “General Provisions,” and to adopt new Chapter 13, “Mediators,” and Chapter 14, “Arbitrators,” Iowa Administrative Code.

New Chapters 13 and 14 are proposed in order to fulfill, in a more formal and available manner than in the past, the Board’s responsibility pursuant to Iowa Code section 20.6(3) to “[e]stablish minimum qualifications for arbitrators and mediators, [and] establish procedures for appointing, maintaining, and removing from a list persons representative of the public to be available to serve as arbitrators and mediators.” While the Board has long maintained publicly available policies and procedures compliant with this statutory directive, those policies and procedures have not heretofore been reflected in Board rules. In addition, Item 1 of this rule making rescinds existing rule 621—1.8(20,279). The content of that rule, which relates to fees of arbitrators, is updated and included as rule 621—14.4(20) in new Chapter 14. There is no increase in fee in the new rule.

These rules do not provide for a waiver of their terms, but are instead subject to the Board’s general waiver provisions found at rule 621—1.9(17A,20).

Any interested person may make written suggestions or comments on the proposed amendments on or before August 26, 2014. Written suggestions or comments should be directed to Michael G. Cormack, Chairperson, Public Employment Relations Board, 510 E. 12th Street, Des Moines, Iowa 50319; or Mike.Cormack@iowa.gov.

Persons who wish to convey their views orally should contact the office of the Public Employment Relations Board by telephone at (515)281-4414 or in person at the Board’s office at the address noted above.

Requests for a public hearing must be received by August 26, 2014.

After review and analysis of this proposed rule making, no adverse impact on jobs has been found. These amendments are intended to implement Iowa Code chapter 20 and Iowa Code section 279.17. The following amendments are proposed.

ITEM 1. Rescind and reserve rule **621—1.8(20,279)**.

ITEM 2. Adopt the following **new** 621—Chapter 13:

CHAPTER 13
MEDIATORS

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

621—13.1(20) Scope and authority. This chapter applies to all mediators listed on the agency's mediator list and to all persons applying for inclusion on the list.

621—13.2(20) Definitions.

"Ad hoc mediator" means a person included on the list who enters into an independent contractor agreement with the agency to provide mediation to parties requesting impasse services pursuant to Iowa Code section 20.20.

"Advocate" means a person who represents employers, employee organizations, or individuals or entities in labor relations or employment relations matters, including but not limited to the subjects of union representation and recognition matters, negotiations, mediation, arbitration, unfair or prohibited labor practices, equal employment opportunity, and other areas generally recognized as constituting labor or employment relations. "Advocate" includes representatives of employers or employees in individual cases or controversies involving workers' compensation, occupational health or safety, minimum wage, or other labor standards matters. "Advocate" also includes persons directly or indirectly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm.

"FMCS" means the Federal Mediation and Conciliation Service.

"Qualified-mediator list" or "list" means the agency-maintained list of mediators who have met the criteria set forth in this chapter.

621—13.3(20) List and status of members.

13.3(1) *The list.* The agency shall maintain a list of mediators who meet the criteria for listing contained in rule 621—13.4(20) and who remain in good standing.

13.3(2) *Adherence to standards and requirements.* Persons included on the list shall comply with the agency's administrative rules pertaining to mediation. Mediators shall conform to the ethical standards and procedures set forth in the current Code of Professional Conduct for Labor Mediators, as approved and published by the Association of Labor Relations Agencies, and chapter 11 of the Iowa Court Rules. When in conflict, the Code of Professional Conduct for Labor Mediators shall take precedence over the Iowa Court Rules.

13.3(3) *Status of FMCS and ad hoc mediators.* Ad hoc mediators and mediators employed by FMCS are not employees of the state of Iowa.

13.3(4) *Rights of persons on the list.* Placement on the list shall be at the sole discretion of the board.

13.3(5) *Assignments.* The agency has sole discretion to make and modify mediation assignments.

621—13.4(20) Mediator listing.

13.4(1) *Categories of mediators.* The list shall consist of three categories of mediators:

- a. The agency's professional staff;
- b. Mediators employed by FMCS; and
- c. Ad hoc mediators.

13.4(2) *Application procedures for ad hoc mediators.* Persons seeking to be included on the list must complete and submit an application to the agency. Applicants shall submit at least two professional references, preferably one reference from management and one reference from labor. The board will review the application under the criteria set forth in this rule and shall make a final decision as to whether an applicant may be placed on the list. Satisfactorily meeting all criteria does not entitle an applicant to inclusion on the list. Each applicant shall be notified in writing of the board's decision.

13.4(3) *Knowledge and abilities.* Applicants must establish requisite knowledge and abilities as follows:

- a. Good verbal and written communication skills;
- b. The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
- c. Knowledge of Iowa Code chapter 20, the agency's administrative rules, and principles and practices of contracts, public finance, and labor relations; and
- d. The ability and willingness to conduct a mediation in a fair and impartial manner.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

13.4(4) Experience. Applicants must demonstrate requisite experience in labor relations or mediation in one of the following ways:

- a. At least three years of collective bargaining experience in the public or private sector;
- b. At least three years of actual mediation experience;
- c. At least five years of other relevant experience in labor-related fields including but not limited to human resource management, industrial relations, and labor unionism;
- d. A law degree or a master's or equivalent degree in industrial or labor relations or alternative dispute resolution; or
- e. Experience that is a combination of that described in paragraphs "a" through "d" of this subrule.

13.4(5) Geographical location. Preference will be given to applicants residing in or near areas of the state where few other listed mediators reside.

13.4(6) Training.

- a. Prior to inclusion on the list, an applicant must complete the following training:
 - (1) Formal training provided by the agency; and
 - (2) Mentorship in at least two disputes with an experienced, listed mediator. The board may require additional mentoring if deemed necessary.

b. Training requirements may be waived by the board for applicants with prior public sector mediation experience.

13.4(7) Conflict of interest. Prior to inclusion on the list, all applicants must disclose potential conflicts of interest as described in subrule 13.6(1).

13.4(8) Exemption. Persons on the agency's professional staff and mediators employed by FMCS shall not be required to submit an application for listing and shall be deemed as meeting all criteria set forth in subrules 13.4(3) through 13.4(6) throughout the duration of their employment with the agency or FMCS.

13.4(9) Grandfather clause. Any person listed prior to [the effective date of this chapter] shall be deemed as meeting all criteria set forth in subrules 13.4(3), 13.4(4) and 13.4(6).

621—13.5(20) Independent contractor agreement. An ad hoc mediator must enter into an independent contractor agreement with the agency prior to receiving mediation assignments. The independent contractor agreement between the ad hoc mediator and the agency shall establish the hourly rate, reimbursable fees and expenses, duration, and other terms and conditions.

621—13.6(20) Conflict of interest.

13.6(1) Conflict of interest. The board shall determine whether a person has a conflict of interest which may require denial of an application or removal from the list or from individual assignments. A conflict of interest arises where:

- a. A mediator is or has been an employee or advocate for a party to the mediation within the prior two years; or
- b. A mediator's immediate family member, or any other person with whom the mediator has close, personal ties, is an interested party in the outcome of the mediation; or
- c. Any other matter that may create an appearance of bias, lack of impartiality, or interest in the proceedings to which the mediator may be or has been assigned.

13.6(2) Duty to disclose. A person applying for inclusion on the list or a person included on the list has a continuing duty to disclose to the board in writing any potential or actual conflicts of interest as described in subrule 13.6(1).

13.6(3) Disclosure. The board may require a mediator to disclose certain matters to the parties of a mediation prior to its commencement. If either party objects to proceeding to mediation with that mediator, the board may assign a different mediator.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

621—13.7(20) Confidentiality.

13.7(1) Exemption from open meetings law. In accordance with Iowa Code section 20.17(3), communications between the parties and the mediator during the course of a mediation shall be exempt from the provisions of Iowa Code chapter 21.

13.7(2) Mediator privilege. In accordance with Iowa Code section 20.31(2), a mediator shall not testify in judicial, administrative, or grievance proceedings regarding any matters occurring in the course of a mediation, including any verbal or written communication or behavior, other than facts relating exclusively to the timing or scheduling of mediation. A mediator shall not produce or disclose any documents, including notes, memoranda, or other work product, relating to mediation, other than documents relating exclusively to the timing or scheduling of mediation.

13.7(3) Exception. Subrule 13.7(2) shall not apply in any of the following circumstances:

- a. The testimony, production, or disclosure is required by statute;
- b. The testimony, production, or disclosure provides evidence of an ongoing or future criminal activity; or
- c. The testimony, production, or disclosure provides evidence of child abuse as defined in Iowa Code section 232.68(2).

621—13.8(20) Complaints. Any affected person or party shall direct a complaint against a mediator who is on the list to the board. The board will consider the complaint and other relevant information and take such action it deems appropriate.

621—13.9(20) Inactive status. A member of the list who continues to meet the criteria for inclusion on the list shall inform the agency if the member is unavailable for assignment on a temporary basis because of illness, vacation, schedule, or other reasons. That member will not receive assignments during the period in which the member is unavailable.

These rules are intended to implement Iowa Code sections 20.1, 20.6 and 20.20.

ITEM 3. Adopt the following new 621—Chapter 14:

CHAPTER 14
ARBITRATORS

621—14.1(20) Scope. This chapter applies to all arbitrators listed on the agency's qualified-arbitrator roster and to all applicants for listing on the roster.

621—14.2(20) Definitions.

“Advocate” means a person who represents employers, employee organizations, or individuals or entities in labor relations or employment relations matters, including but not limited to the subjects of union representation and recognition matters, negotiations, mediation, arbitration, unfair or prohibited labor practices, equal employment opportunity, and other areas generally recognized as constituting labor or employment relations. *“Advocate”* includes representatives of employers or employees in individual cases or controversies involving workers' compensation, occupational health or safety, minimum wage, or other labor standards matters. *“Advocate”* also includes persons directly or indirectly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm.

“Arbitrator” means a person serving as a neutral decision-maker in interest arbitrations, grievance arbitrations, or teacher termination adjudications.

“Grievance arbitration” means the proceedings on an alleged contract violation as provided in a collective bargaining agreement entered into pursuant to Iowa Code chapter 20.

“Grievance arbitrator” means a person serving as a neutral decision-maker in a grievance arbitration.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

“*Interest arbitration*” means the binding arbitration contemplated by Iowa Code section 20.22 or by an impasse agreement entered into pursuant to Iowa Code section 20.19.

“*Interest arbitrator*” means a person serving as a neutral decision-maker in an interest arbitration.

“*Qualified-arbitrator roster*” or “*roster*” means the agency-maintained list of arbitrators who have met the criteria set forth in this chapter.

“*Teacher termination adjudication*” means the proceedings contemplated by Iowa Code section 279.17.

“*Teacher termination adjudicator*” means a person serving as a neutral decision-maker in a teacher termination adjudication.

621—14.3(20) Roster and status of members.

14.3(1) *The roster.* The agency shall maintain a roster of arbitrators who meet the criteria for listing contained in rule 621—14.5(20) and who remain in good standing.

14.3(2) *Adherence to standards and requirements.* Persons listed on the roster shall comply with the agency’s administrative rules pertaining to arbitrators. Arbitrators shall conform to the ethical standards and procedures set forth in the current Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved and published by the National Academy of Arbitrators, Federal Mediation and Conciliation Service, and the American Arbitration Association.

14.3(3) *Status of arbitrators.* Persons who are listed on the roster are not employees of the state of Iowa. A selected arbitrator’s contractual relationship is solely with the parties to the dispute.

14.3(4) *Roster listing fee.* An annual listing fee of \$150 for each roster member is established to maintain the roster. Roster members shall remit payment to the agency by November 1 each year. This fee shall be considered a repayment receipt as defined in Iowa Code section 8.2.

621—14.4(20) Fees of arbitrators. Qualified arbitrators selected from the roster may be compensated by a sum not to exceed \$1,200 per day of service, plus their necessary expenses incurred.

621—14.5(20) Arbitrator roster.

14.5(1) *Categories of arbitrators.* The roster shall consist of three categories of arbitrators:

- a. Interest arbitrators;
- b. Grievance arbitrators; and
- c. Teacher termination adjudicators.

Persons may be listed on the roster in each category in which they meet the criteria.

14.5(2) *Initial application procedures.* Persons seeking to be listed on the roster in one or more categories must complete and submit an application to the board. Applicants shall submit at least one reference from management, one reference from labor, and applicable writing samples. The board will review the application under the criteria, as set forth in subrules 14.5(3), 14.5(4), 14.5(5), and 14.5(6), and shall make a final decision concerning whether an applicant will be listed on the roster and under which category or categories the applicant qualifies. Each applicant shall be notified in writing of the board’s decision.

14.5(3) *Knowledge and abilities.* Applicants must establish requisite knowledge and abilities as follows:

- a. For listing on the roster as an interest arbitrator:
 - (1) Good verbal and written communication skills;
 - (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
 - (3) Knowledge of Iowa Code chapter 20, the agency’s rules, and principles and practices of contracts, public finance, and labor relations; and
 - (4) The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards. For purposes of this subparagraph, “timely” means within 15 days after the interest arbitration hearing pursuant to Iowa Code section 20.22(9) or in a time frame established by an impasse agreement entered into pursuant to Iowa Code section 20.19.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

b. For listing on the roster as a grievance arbitrator:

- (1) Good verbal and written communication skills;
- (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
- (3) Knowledge of arbitral principles and practices, contracts, and labor relations; and
- (4) The ability to conduct evidentiary hearings in a fair and impartial manner, develop an accurate record, and prepare and issue clear, reasoned and timely awards. For purposes of this subparagraph, “timely” means within the timeframe established by the parties’ collective bargaining agreement entered into pursuant to Iowa Code chapter 20.

c. For listing on the roster as a teacher termination adjudicator:

- (1) Good verbal and written communication skills;
- (2) The ability and willingness to travel throughout Iowa and to work prolonged and unusual hours;
- (3) Knowledge of Iowa Code section 279.17; and
- (4) The ability to review adjudicatory records developed by another body, hear legal arguments in a fair and impartial manner, and prepare and issue clear, reasoned and timely decisions. For purposes of this subparagraph, “timely” means within 15 days after the teacher termination adjudication hearing pursuant to Iowa Code section 279.17(7).

14.5(4) Experience.

a. Applicants must demonstrate requisite experience in labor relations or arbitration in the category in which the applicant seeks listing on the roster in one of the following ways:

- (1) For listing on the roster as an interest arbitrator:
 1. Issuance of at least four fact-finding or interest arbitration decisions or a combination thereof;
 2. At least three years’ experience as a mediator in collective bargaining interest disputes, with training and experience in conducting hearings and issuing reasoned awards; or
 3. At least five years’ experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

- (2) For listing on the roster as a grievance arbitrator:
 1. Issuance of at least four grievance awards; or
 2. At least five years’ experience in labor relations or labor law, with training and experience in conducting hearings and issuing reasoned awards.

- (3) For listing on the roster as a teacher termination adjudicator:
 1. Issuance of at least four decisions rendered in an appellate capacity; or
 2. At least five years’ experience in the field of education, with training and experience in reviewing adjudicatory records and issuing reasoned decisions.

b. The board may give credit against the years of experience requirement to a candidate who has received a master’s or equivalent degree in a related area or who has adjudicatory experience in a field or fields other than labor relations.

14.5(5) Conflict of interest. Prior to inclusion on the roster, all applicants must disclose potential conflicts of interest as described in subrule 14.8(1).

14.5(6) Training. Prior to inclusion on the roster as an interest arbitrator, applicants must complete formal training provided by the agency.

14.5(7) Exemption. Applicants who qualify for and complete the agency’s interest arbitrator mentorship program, as outlined in rule 621—14.6(20), shall be exempt from the criteria set forth in subparagraph 14.5(4)“a”(1) and subrule 14.5(6).

14.5(8) Duration of listing. Listing on the roster shall be for a term of three years.

14.5(9) Renewal application.

a. The board shall notify a roster member not less than 120 days before the expiration of the member’s three-year term of the procedures necessary to continue inclusion on the roster.

b. A roster member desiring to renew the member’s listing must submit a written application to the board not less than 60 days before the expiration of the member’s three-year term.

c. When reviewing a renewal application, the board shall consider the following criteria, plus any other relevant information, in determining whether to renew the person’s listing:

- (1) Demonstration of the requisite knowledge and abilities as listed in subrule 14.5(3);

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

(2) Acceptability, which may be based on the agency's records that show the number of times the arbitrator's name has been proposed to the parties and the number of times the arbitrator has been selected. Such cases will be reviewed for extenuating circumstances, such as the arbitrator's length of time on the roster or prior history;

(3) Timeliness of decisions;

(4) Feedback from the parties; and

(5) Attendance at agency-sponsored events, including conferences and trainings.

d. Within 60 days of receipt of the completed application, the board shall issue and serve in accordance with 621—subrule 2.15(2) a written decision granting or denying the renewal application.

(1) If renewal is granted, the roster member shall remit payment of the annual listing fee in accordance with subrule 14.3(4).

(2) If renewal is denied, the renewal applicant may request reconsideration of the denial within 14 days of issuance of the denial. The board shall hold a hearing conducted in accordance with 621—Chapter 2 within 60 days of the request for reconsideration and shall issue its final ruling within 30 days of the hearing. Absent a timely request for reconsideration, the board's denial of the renewal application becomes final, and the arbitrator shall be removed from the roster.

14.5(10) Grandfather clause. Any arbitrator listed on the roster prior to [the effective date of this chapter] shall be deemed to meet all criteria set forth in subrules 14.5(3), 14.5(4), and 14.5(6) for up to three years following [the effective date of this chapter]. For purposes of renewal, the agency shall divide arbitrators listed on the roster on [the effective date of this chapter] into three groups with staggered renewal dates and will notify the members of each group when their renewal applications are due.

621—14.6(20) Interest arbitrator mentorship program.

14.6(1) Goal. It is a goal of the board to increase the number of Iowa residents qualified to be on the roster. Such increase should provide constituents additional options for hiring arbitrators whose reimbursable expenses, such as for mileage and accommodations, are lower and who are more familiar with situations facing the parties. The board may suspend the interest arbitrator mentorship program at any time.

14.6(2) Application procedures. Persons seeking to participate in the program must complete and submit an application on a form prescribed by the board. The board will review the application and make a final decision whether an applicant qualifies for the program in accordance with subrule 14.6(3). Each applicant shall be notified in writing of the board's decision.

14.6(3) Qualifications. To be eligible to participate in the program, an applicant must meet the following qualifications:

a. Be a resident of the state of Iowa at the time of application and throughout the duration of the mentorship program and maintain the residency for the first year of listing;

b. Have at least five years of collective bargaining experience in the public or private sector as an advocate, mediator, or combination of both;

c. Possess good verbal and written communication skills;

d. Have the ability and willingness to travel throughout Iowa and to work prolonged and unusual hours; and

e. Not have a conflict of interest as described in subrule 14.8(1).

14.6(4) The program.

a. The program shall consist of the following steps:

(1) Formal training by the agency regarding Iowa Code chapter 20, the agency's administrative rules, and how to conduct hearings and write awards;

(2) Shadowing an experienced arbitrator listed on the roster in at least two interest arbitrations; and

(3) Submission of at least two mock interest arbitration awards that comply with statutory and regulatory requirements. The board may require additional mock awards if deemed necessary.

b. Successful completion of the program will result in the participant's inclusion on the roster as an interest arbitrator. Participants must satisfy the criteria for grievance arbitrators and teacher

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

termination adjudicators outlined in subrules 14.5(3) and 14.5(4) prior to inclusion on the roster under those categories.

621—14.7(20) Biography. Each roster member shall maintain a biography in a form prescribed by the board. The roster member is responsible for ensuring that the biography is accurate and current. The agency bears no responsibility for inaccurate, incomplete, or outdated information in biographies. The member's biography shall contain the following:

1. Name, address, telephone number, and e-mail address;
2. Current and past employment, including the member's representative client base if not readily identifiable;
3. Education history;
4. Per diem rate and other applicable charges or fees;
5. Relevant experience, including but not limited to listing on other arbitrator rosters or memberships/associations; and
6. Potential or actual conflicts of interest as described in subrule 14.8(1).

621—14.8(20) Conflict of interest.

14.8(1) *Conflict of interest.* The board shall determine whether a person has a conflict of interest which may require denial of an initial or renewal application or removal from the roster or from individual selections. A conflict of interest arises where:

- a. An arbitrator is or has been an employee or advocate for a party to the arbitration within the prior two years;
- b. An arbitrator's immediate family member, or any other person with whom the arbitrator has close, personal ties, is an interested party in the outcome of the arbitration; or
- c. Any other matter that may create an appearance of bias, lack of impartiality, or interest in the proceedings to which the arbitrator may be or has been selected.

14.8(2) *Duty to disclose.* A person applying for inclusion on the roster or a person listed on the roster has a continuing duty to disclose to the board in writing any potential or actual conflicts of interest as described in subrule 14.8(1).

14.8(3) *Disclosure.* The board may require an arbitrator to disclose certain matters to the parties of an arbitration prior to its commencement. If either party objects to proceeding to arbitration with that arbitrator, the board may require the parties to make an alternate selection.

621—14.9(20) Procedures for discipline and removal.

14.9(1) *Grounds.* Probation, suspension, or removal from the roster may be based upon one or a combination of any of the following, including but not limited to:

- a. Failure to comply with statutory provisions, the agency's administrative rules, and agency guidelines and policies;
- b. Delinquency in submitting awards;
- c. Existence of a conflict of interest as described in subrule 14.8(1) that requires exclusion from the roster;
- d. Failure to disclose to the board or the parties any conflict of interest as described in subrule 14.8(1);
- e. Failure to demonstrate the requisite knowledge and abilities listed in subrule 14.5(3);
- f. Any other reason for which the board deems discipline or removal to be in the best interest of the agency, its constituents, or the public at large.

14.9(2) *Automatic removal.* Any roster member who fails to pay the annual listing fee pursuant to subrule 14.3(4) shall be removed from the roster, absent good cause shown for why removal is inappropriate. Any member who fails to submit a renewal application pursuant to paragraph 14.5(9) "b" shall be removed from the roster 30 days after the expiration of the member's term, absent good cause shown for why removal is inappropriate.

PUBLIC EMPLOYMENT RELATIONS BOARD[621](cont'd)

14.9(3) Filing of a complaint.

a. Any affected person or party may file with the board a complaint against an arbitrator listed on the roster. The board may also file a complaint pursuant to this subrule. Such complaint shall be in writing and shall contain:

- (1) The name, address, telephone number, and e-mail address of the complaining party;
- (2) The dispute(s) in which the complaining party has interacted with the arbitrator;
- (3) The specific allegations on which the complaint is based;
- (4) The requested discipline;
- (5) The signature of the complaining party; and
- (6) The date on which the complaint was prepared.

b. The board shall serve on the arbitrator written notice of the complaint within 14 days of receipt of the complaint and in accordance with rule 621—2.15(20).

14.9(4) Preliminary investigation. Upon receipt of a complaint from an affected person or party, the board shall conduct a preliminary investigation into the allegations. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation reveals the complaint has no basis in fact or if the complaint is informally resolved with the approval of the board, the complaint shall be dismissed and the parties notified in accordance with rule 621—2.15(20).

14.9(5) Procedures. If the complaint is not dismissed following the preliminary investigation, the board shall schedule the complaint for hearing and notify the parties in accordance with rule 621—2.2(20). The hearing shall be held within 60 days of the completion of the preliminary investigation or the filing of a board-initiated complaint. The hearing and all subsequent proceedings and filings shall be in accordance with 621—Chapter 2.

14.9(6) Timely resolution of complaints. Complaints filed with the board shall be resolved within 180 days unless good cause is shown for an extension. The board will notify the parties prior to taking action to extend this time limitation upon its own motion.

621—14.10(20) Inactive status. A roster member who continues to meet the criteria for listing on the roster shall inform the agency if the member is unavailable for selection on a temporary basis because of illness, vacation, schedule, or other reasons. That member's name will not be included on a list of arbitrators sent to parties during the period in which the member is unavailable.

These rules are intended to implement Iowa Code sections 20.1, 20.6, 20.22 and 279.17.

ARC 1567C

PUBLIC HEALTH DEPARTMENT[641]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 136A.8, the Department of Public Health hereby amends the Notice of Intended Action to amend Chapter 4, "Center for Congenital and Inherited Disorders," Iowa Administrative Code.

The original Notice of Intended Action was published in the May 28, 2014, Iowa Administrative Bulletin as **ARC 1471C**. After receiving oral and written comments from interested parties, the Department decided to alter the language of Items 2, 3, 6, 7, 13, 16, 17 and 19 as it was originally proposed, add a new Item 20, and renumber Items 20 and 21 as Items 21 and 22. There are no proposed changes to Items 1, 4, 5, 8 to 12, 14, 15 and 18 and renumbered Items 21 and 22.

In Item 2, the definition of "Newborn critical congenital heart disease (CCHD) screening" has been changed by adding the words "or other means" following "pulse oximetry"; this reflects the language in 2013 Iowa Acts, chapter 140, section 91. Item 3 amends the definition of "Residual newborn screening specimen" to clarify that the residual specimen consists of dried blood spots. Item 6 has been changed to use the term for newborn screening refusal consistently. Items 6, 16 and 17 have been changed to use

PUBLIC HEALTH DEPARTMENT[641](cont'd)

the term “newborn screening specimen” consistently. Item 7 has been changed to reflect policies and procedures that will be developed to obtain informed consent for the use of residual newborn screening specimens, rather than refusal forms. The Department has provided an effective date of July 1, 2015, for the informed consent procedure to allow for policy development prior to implementation. A procedure is also described to enable parents or guardians to indicate refusal to allow the newborn’s specimen to be used for research for newborns with specimens collected prior to the effective date of the informed consent procedure. Item 13 has been changed to remove proposed language about ownership of the dried blood spot specimen, until such time that a policy for storage and retention of dried blood spots is developed. Item 19 has been changed to indicate that other methods, besides pulse oximetry, may be used to screen for critical congenital heart disease in the newborn, as long as they are in accordance with the most recent published guidelines, algorithms, and protocols from the American Academy of Pediatrics (AAP) or the Department. For the same reason, the catchwords for paragraphs 4.3(9)“b” and “c” have been changed. New Item 20 amends renumbered subrule 4.3(10) by adding new paragraphs 4.3(10)“c” to “f” to address the use of newborn screening and maternal prenatal screening fees. Subsequent items have been renumbered accordingly.

Due to these proposed changes, primarily the addition of “or other means” following “pulse oximetry,” the Department received a request from the American Heart Association along with 54 interested Iowa citizens to have the opportunity to make oral presentations on the changes made to the original Notice of Intended Action.

Therefore, a public hearing will take place on August 26, 2014, from 1 to 2 p.m. Any interested person may provide written comments or participate in the public hearing by telephone at 1-866-685-1580 and enter the passcode 5152816466#; or may participate in the public hearing at the following Iowa Communications Network sites:

Origination site:

- Iowa Department of Public Health
321 East 12th Street
Lucas State Office Building
Sixth Floor Reception Desk
Des Moines, Iowa

Other sites:

- Spencer Public Library
21 East Third Street
Spencer, Iowa
- Decorah Public Library
202 Winnebago Street
Decorah, Iowa
- Council Bluffs Department of Human Services
417 East Kaneshville Boulevard
Council Bluffs, Iowa
- Bettendorf Public Library Information Center
2950 Learning Campus Drive
Bettendorf, Iowa

Written comments must be submitted by August 26, 2014, and may be directed to Kimberly Noble Piper, Executive Officer, Center for Congenital and Inherited Disorders, Department of Public Health, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319; fax (515)725-1760. E-mail may be sent to kimberly.piper@idph.iowa.gov.

After analysis and review of this rule making, the impact on jobs is anticipated to be minimal.

These amendments are intended to implement Iowa Code chapter 136A and Iowa Code section 135.131.

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The following amendments are proposed.

ITEM 1. Amend rule 641—4.1(136A), introductory paragraph, as follows:

641—4.1(136A) Program overview. The center for congenital and inherited disorders within the department of public health provides administrative oversight to the following: Iowa newborn screening program, ~~expanded maternal serum alpha-fetoprotein screening~~ Iowa maternal prenatal screening program, regional genetic consultation service, neuromuscular and related genetic disease program, ~~and~~ Iowa registry for congenital and inherited disorders, and Iowa early hearing detection and intervention program.

ITEM 2. Adopt the following **new** definitions in rule **641—4.2(136A)**:

“*Critical congenital heart disease*” or “*CCHD*” means the presence of one or more specific heart lesions: hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus.

“*Early hearing detection and intervention program*” means Iowa’s newborn hearing screening and follow-up program which ensures that all newborns and toddlers with hearing loss are identified as early as possible and provided with timely and appropriate audiological, educational and medical intervention and family support.

“*Newborn critical congenital heart disease (CCHD) screening*” means the screening of newborns for seven targeted heart conditions (hypoplastic left heart syndrome, pulmonary atresia, tetralogy of Fallot, total anomalous pulmonary venous return, transposition of the great arteries, tricuspid atresia, and truncus arteriosus) using pulse oximetry or other means to detect blood oxygen saturation levels.

ITEM 3. Amend rule **641—4.2(136A)**, definitions of “Committee,” “Primary health care provider” and “Residual newborn screening specimen,” as follows:

“*Committee*” means the center for congenital and inherited disorders advisory committee (CIDAC).

“*Primary health care provider*” means a licensed physician, physician assistant, nurse practitioner, or certified nurse midwife providing ongoing primary medical care to a patient.

“*Residual newborn screening specimen*” means the portion of the dried blood spot specimen that may be left over after all activities necessary for the Iowa newborn screening program are completed.

ITEM 4. Adopt the following **new** paragraph **4.3(1)“d”**:

d. For purposes of newborn screening, the department shall collect newborn screening specimens and data, test the specimens for disorders on the universal screening panel, conduct follow-up on abnormal screening results, conduct quality improvement and quality assurance activities, and store specimens for a time period determined by policies established by the CIDAC and the department.

ITEM 5. Amend subrule 4.3(2), catchwords, as follows:

4.3(2) ~~Neonatal metabolic~~ Newborn blood spot screening procedure for facilities and providers.

ITEM 6. Amend paragraph **4.3(2)“b”** as follows:

b. ~~Waiver Refusal of screening.~~ Should a parent or guardian refuse the screening, said refusal shall be documented in the infant’s medical record, and the parent or guardian shall sign the refusal of screening ~~waiver form~~. The birthing facility or attending health care provider shall submit the signed refusal of screening ~~waiver form~~ to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms.

ITEM 7. Amend paragraph **4.3(2)“e”** as follows:

e. ~~Waiver Informed consent for the release of residual specimens for research use.~~ The department shall establish policies and procedures, including ~~a refusal for research waiver form~~ an informed consent for release of specimens for research, to allow a parent or guardian the ability to ~~refuse~~ provide informed consent prior to the release of the newborn’s residual newborn screening specimen for research purposes. The birthing facility or attending health care provider shall submit the signed ~~refusal for research waiver~~ informed consent form to the central laboratory pursuant to established policy and procedure. The informed consent procedure shall apply to all specimens collected on or after July 1, 2015. For specimens

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collected prior to July 1, 2015, a parent or guardian may send a letter stating that the newborn's specimen is not to be released for research purposes. This letter shall include the parent's or guardian's name, the newborn's name at birth, and the newborn's date of birth. The letter of notice shall be sent to the State Hygienic Laboratory at Newborn Screening Program, State Hygienic Laboratory, 2220 S. Ankeny Blvd., Ankeny, Iowa 50023-9093.

ITEM 8. Amend paragraph **4.3(3)“b”** as follows:

b. Procedures for specimen collection for newborn blood spot screening shall be followed in accordance with 4.3(2).

ITEM 9. Amend paragraph **4.3(4)“e”** as follows:

e. Notification. The birthing facility shall report the newborn screening results to the health care provider who has undertaken ongoing primary pediatric care of the infant.

ITEM 10. Amend paragraph **4.3(6)“b”** as follows:

b. The follow-up programs shall submit a written annual report of the previous calendar year by July 1 of each year. The report shall include:

- (1) No change.
- (2) ~~Method and timing of referrals made to the follow-up programs~~ Number of confirmed cases receiving follow-up,
- ~~(3) Each individual's age at confirmation of disorder,~~
- ~~(4) Each individual's age when treatment began,~~
- ~~(5) Type of treatment for each individual with a disorder, and~~
- (6) (3) A written summary of educational and follow-up activities.

ITEM 11. Amend subrule 4.3(7), introductory paragraph, as follows:

4.3(7) *Sharing of information and confidentiality.* Reports, records, and other information collected by or provided to the Iowa newborn screening program relating to an infant's newborn screening results and follow-up information are confidential records pursuant to Iowa Code ~~section~~ sections 22.7 and 136A.7. INSP data may be retained indefinitely.

ITEM 12. Amend subparagraph **4.3(7)“b”(1)** as follows:

- (1) The parent or guardian of an infant or child or the adult individual for whom the report is made.

ITEM 13. Amend paragraph **4.3(8)“a,”** introductory paragraph, as follows:

a. A newborn screening specimen collection form consists of a filter paper containing the dried blood spots (DBS) specimen and the attached requisition that contains information about the infant and birthing facility or drawing laboratory. The DBS specimen can be separated from the information contained in the requisition form. The INSP is the custodian of the specimens and related data for purposes of newborn screening, quality improvement and quality assurance activities.

ITEM 14. Reletter paragraph **4.3(8)“b”** as **4.3(8)“c.”**

ITEM 15. Adopt the following new paragraph **4.3(8)“b”**:

b. The program shall not release a residual newborn screening specimen except to the following persons and entities:

- (1) The parent or guardian of the infant or the individual adult upon whom the screening was performed.
- (2) A health care provider, birthing facility, or submitting laboratory.
- (3) A medical examiner authorized to conduct an autopsy on a child or an investigation into the death of a child.
- (4) A researcher for research purposes, under the terms and conditions provided in this rule.
- (5) The newborn screening program, for operations as provided in this rule.

ITEM 16. Amend relettered paragraph **4.3(8)“c”** as follows:

c. Research use. A residual newborn screening specimen may be released for research purposes only if written consent has been received from a parent or guardian of the child, or the individual adult upon whom the screening was performed, and each of the following conditions is satisfied:

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(1) Investigators shall submit proposals to use residual ~~DBS~~ newborn screening specimens to the center. Any ~~intent to utilize information associated with~~ intended use of the requested specimens as part of the research study must be clearly delineated in the proposal.

(2) Before research can commence, proposals shall be approved by the researcher's institutional review board, the congenital and inherited disorders advisory committee, and the department.

~~(3) Personally identifiable residual specimens or records shall not be disclosed without documentation of informed parental consent obtained by the researcher.~~

(4) ~~(3)~~ Research on anonymized or identifiable residual newborn screening specimens shall be allowed only in instances where research would further: newborn screening activities; the health of an infant or child for whom no other specimens are available or readily attainable; ~~or~~ general medical knowledge for existing public health surveillance activities; public health purposes; or medical knowledge to advance the public health.

ITEM 17. Adopt the following new paragraphs **4.3(8)“d”** and **“e”**:

d. Newborn screening program operations. Residual newborn screening specimens may be used for activities, testing, and procedures directly related to the operation of the newborn screening program, including confirmatory testing, laboratory quality control assurance and improvement, calibration of equipment, evaluation and improvement of the accuracy of newborn screening tests, and validation of equipment and screening methods.

e. Prohibited uses. A residual newborn screening specimen shall not be released to any person or entity for commercial purposes or law enforcement purposes or to establish a database or repository for forensic identification.

ITEM 18. Renumber subrules **4.3(9)** and **4.3(10)** as **4.3(10)** and **4.3(11)**.

ITEM 19. Adopt the following new subrule 4.3(9):

4.3(9) *Newborn screening for critical congenital heart disease.* All newborns and infants born in Iowa shall receive newborn screening for CCHD, by pulse oximetry or other means in accordance with subparagraph 4.3(9)“b”(3). The purpose of newborn screening for CCHD is to identify newborns with structural heart defects usually associated with hypoxia in the newborn period which could have significant morbidity or mortality early in life with the closing of the ductus arteriosus or other physiological changes early in life.

a. Newborn CCHD screening procedure for providers and facilities.

(1) Educating parent or guardian. Before newborn screening for CCHD on an infant is conducted, a parent or guardian shall be informed of the type of screening, how it is performed, the nature of the disorders for which the infant is being screened, and the follow-up procedure for an abnormal screen result.

(2) Refusal. Should a parent or guardian refuse the screening, said refusal shall be documented in the infant's medical record, and the parent or guardian shall sign the refusal of screening form. The birthing facility or attending health care provider shall submit the signed refusal form to the central laboratory within six days of the refusal. The birthing facility or attending health care provider may submit refusal forms via the courier service established for the transportation of newborn screening specimen collection forms.

b. Newborn CCHD screening for newborns in low-risk or intermediate nurseries or out-of-hospital births.

(1) Screening should not begin until the newborn is at least 24 hours of age, or as late as possible if earlier discharge is planned, and should be completed on the second day of life.

(2) Screening shall be conducted using pulse oximeters or other means in accordance with subparagraph 4.3(9)“b”(3). Pulse oximeters shall:

1. Be motion tolerant;
2. Report functional oxygen saturation;
3. Be validated in low-perfusion conditions;
4. Be cleared by the Food and Drug Administration (FDA) for use on newborns; and
5. Have a 2 percent root-mean-square accuracy.

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Disposable or reusable probes may be used. Reusable probes must be appropriately cleaned between uses according to manufacturer's instructions.

(3) Newborn CCHD screening shall be conducted by pulse oximetry or other means in accordance with the most recently published guidelines, algorithms, and protocols from the American Academy of Pediatrics (AAP) or the department. Materials are available on the CCID web page at http://idph.state.ia.us/genetics/newborn_screening.asp.

c. Newborn CCHD screening for high-risk newborns in neonatal intensive care settings (NICU). Until such time that an evidence-based protocol for CCHD screening in infants discharged from the NICU is available, the attending health care provider shall conduct a comprehensive examination of the newborn to screen the infant for CCHD prior to discharge.

d. Primary health care provider responsibility. The health care provider shall ensure that infants under the provider's care are screened.

e. Reporting results of newborn CCHD screening. At such time as the CCHD reporting system is implemented, results of newborn CCHD screening shall be reported in a manner consistent with other newborn screening (formerly referenced as metabolic screening) reporting.

ITEM 20. Amend renumbered subrule 4.3(10) as follows:

4.3(10) ~~INSP fee determination and IMPSP fees.~~

a. The department shall annually review and determine the fee to be charged for all activities associated with the INSP and the IMPSP. The review and fee determination shall be completed at least one month prior to the beginning of the fiscal year. The newborn screening fee is \$122.

b. The department shall include as part of ~~this~~ the INSP fee an amount determined by the committee and department to fund the provision of special medical formula and foods for eligible individuals with inherited diseases of amino acids and organic acids who are identified through the ~~program~~ programs.

c. Funds collected through newborn screening fees shall be used for newborn screening program activities only.

d. Funds collected through maternal prenatal screening fees shall be used for maternal prenatal screening activities only.

e. In order to support newborn and maternal prenatal screening activities, the department shall authorize the expenditure and exchange of newborn screening and maternal prenatal screening funds between the SHL (as designated fiscal agent) and the department.

f. Upon department approval of proposed budgets, a portion of INSP and IMPSP fees shall be distributed to the department to support the percent of effort of the executive officer of the center for congenital and inherited disorders (CCID).

ITEM 21. Amend subrule 4.6(3) as follows:

4.6(3) ~~Patient fees.~~

a. ~~A sliding fee scale for specialty genetic provider services shall be established for patients attending the outreach clinics. The parameters for the sliding fee scale shall be based on federally established percent of poverty guidelines and updated annually.~~

b. ~~Families/clients seen in neuromuscular outreach clinics shall have bills submitted to third-party payers where applicable. Families/clients shall be billed on a sliding fee scale after third-party payment is received. Payments received from receipts of service based on the sliding fee scale or from the third-party payers shall be used only to support the neuromuscular outreach clinics.~~

e. The University of Iowa Hospitals and Clinics under the control of the state board of regents shall not receive indirect costs from state funds appropriated for this program.

ITEM 22. Adopt the following **new** rule 641—4.8(135):

641—4.8(135) Iowa's early hearing detection and intervention program. The goal of universal hearing screening of all newborns and infants in Iowa is the early detection of hearing loss to allow children and their families the earliest possible opportunity to obtain appropriate early intervention services. All newborns and infants born in Iowa, except those born with a condition that is incompatible

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with life, shall be screened for hearing loss. Early hearing detection and intervention programming and services will be provided pursuant to 641—Chapter 3.

ARC 1571C**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 2014 Iowa Acts, Senate File 2360, section 6, the Department of Public Health hereby gives Notice of Intended Action to adopt new Chapter 154, “Medical Cannabidiol Act Registration Card Program,” Iowa Administrative Code.

These rules implement the Medical Cannabidiol Act, 2014 Iowa Acts, Senate File 2360, which permits the possession and use of cannabidiol as defined in the legislation. The rules add the definitions of “cannabidiol,” “department,” “intractable epilepsy,” “neurologist,” and “primary caregiver” as provided for in Senate File 2360, as well as definitions for “date of expiration,” “date of issuance,” “department of transportation,” “patient,” “permanent resident,” and “state.” The proposed rules provide for the receipt by the Department of a written recommendation from a neurologist and the process for the issuance of a cannabidiol registration card to a patient or primary caregiver. The rules further provide for the protection of confidential patient and primary caregiver information.

Any interested person may make written comments or suggestions on the proposed rules on or before August 26, 2014. Such written comments should be directed to Deborah Thompson, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Comments may be sent by fax to (515)281-4958 or by e-mail to Deborah.Thompson@idph.iowa.gov.

There will be a public hearing on August 26, 2014, from 11:30 a.m. to 1 p.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

This hearing will originate from the Iowa Communications Network (ICN) and will be accessible over the ICN from the following locations:

Ottumwa Regional Health Center
1001 E. Pennsylvania
Ottumwa

Iowa Western Community College – 1
2700 College Road
Council Bluffs

Davenport Public Library
321 Main
Davenport

North Iowa Area Community College – 4
500 College Drive
Mason City

Sioux City Public Library
529 Pierce Street
Sioux City

Lucas State Office Building, Sixth Floor
321 E. 12th Street
Des Moines

This hearing will also be accessible via conference call by dialing 1-866-685-1580 and using the pass code 5152814355.

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 Iowa Department of Public Health and advise staff of specific needs.

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

These rules are intended to implement 2014 Iowa Acts, Senate File 2360.

The following amendment is proposed.

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Adopt the following new 641—Chapter 154:

CHAPTER 154
MEDICAL CANNABIDIOL ACT REGISTRATION CARD PROGRAM

641—154.1(85GA,SF2360) Definitions. For the purposes of these rules, the following definitions shall apply:

“*Cannabidiol*” means a nonpsychoactive cannabinoid found in the plant *Cannabis sativa L.* or *Cannabis indica* or any other preparation thereof that is essentially free from plant material, and has a tetrahydrocannabinol level of no more than 3 percent.

“*Date of expiration*” means one year from the date of issuance of the cannabidiol registration card by the department of transportation.

“*Date of issuance*” means the date of issuance of the cannabidiol registration card by the department of transportation.

“*Department*” means the Iowa department of public health.

“*Department of transportation*” means the Iowa department of transportation.

“*Intractable epilepsy*” means an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.

“*Neurologist*” means an allopathic or osteopathic physician board-certified in neurology in good standing and licensed under Iowa Code chapter 148.

“*Patient*” means a person who is a permanent resident of the state of Iowa who suffers from intractable epilepsy and has received a recommendation from a neurologist for the medical use of cannabidiol pursuant to 2014 Iowa Acts, Senate File 2360.

“*Permanent resident*” means a natural person who has physically resided in Iowa as the person’s principal and primary residence for a period of not less than 90 consecutive days immediately before applying for a cannabidiol registration card and who has been issued a valid Iowa driver’s license or a valid Iowa nonoperator’s identification card.

“*Primary caregiver*” means a person, at least 18 years of age, who has been designated by a patient’s neurologist or a person having custody of a patient, as being necessary to take responsibility for managing the well-being of the patient with respect to the medical use of cannabidiol pursuant to the provisions of 2014 Iowa Acts, Senate File 2360.

“*State*” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

641—154.2(85GA,SF2360) Neurologist recommendation—medical use of cannabidiol.

154.2(1) A neurologist who has physically examined and treated a patient suffering from intractable epilepsy may provide, but has no duty to provide, a written recommendation for the patient’s medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy if no other satisfactory treatment options exist for the patient and all of the following conditions apply:

- a. The patient is a permanent resident of this state.
- b. A neurologist has treated the patient for intractable epilepsy for at least six months. For purposes of this treatment period, and notwithstanding 2014 Iowa Acts, Senate File 2360, section 3, subsection 4, treatment provided by a neurologist may include treatment by a neurologist licensed in another state and in good standing.
- c. The neurologist has tried and documented alternative treatment options that have not alleviated the patient’s symptoms.
- d. The neurologist determines the risks of recommending the medical use of cannabidiol are reasonable in light of the potential benefit for the patient and has documented a discussion of the risks and benefits with the patient or the patient’s parent or legal guardian.

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e. The neurologist maintains a patient treatment plan. The neurologist shall have the sole, exclusive authority to recommend the use and amount of cannabidiol, if any, in the treatment plan, and shall recommend in the treatment plan only the oral or transdermal administration of cannabidiol.

f. The neurologist shall be available to provide follow-up care and treatment to the patient, including but not limited to patient examinations; however, this rule shall not restrict the authority of a neurologist to terminate the physician-patient relationship, provided that such termination is effectuated in accordance with rule 653—13.7(147,148,272C).

154.2(2) The neurologist is required to use the written recommendation section of the application form provided for this purpose on the department's Web site (www.idph.state.ia.us).

154.2(3) The neurologist, or authorized persons in the neurologist's office or clinic, is required to complete the written recommendation section of the application form and send the application to the department's address as provided on the application form.

154.2(4) A neurologist who provides a written recommendation pursuant to this chapter shall maintain a record-keeping system for all patients for whom the neurologist has recommended the medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy.

154.2(5) A neurologist who provides a written recommendation pursuant to this chapter is required to participate in any survey that will be conducted by the department on the implementation of the medical cannabidiol Act. Any such survey will adhere to the federal Health Insurance Portability and Accountability Act of 1996.

641—154.3(85GA,SF2360) Cannabidiol registration card—application and issuance to patient.

154.3(1) The department may approve the issuance of a cannabidiol registration card by the department of transportation to a patient who:

a. Is at least 18 years of age.
b. Is a permanent resident of Iowa.
c. Requests the patient's neurologist to submit to the department, pursuant to rule 641—154.2(85GA,SF2360), a written recommendation signed by the neurologist that the patient may benefit from the medical use of cannabidiol.

d. Is listed as the patient on the application form submitted to the department, on a form created by the department in consultation with the department of transportation and available at the department's Web site (www.idph.state.ia.us) that contains all of the following:

(1) The patient's full legal name, Iowa residence address, mailing address (if different from the patient's residence address), telephone number, date of birth, and sex designation. The patient shall not provide as a mailing address an address for which a forwarding order is in place.

(2) A copy of the patient's valid photo identification. Acceptable identification includes:

1. A valid Iowa driver's license, or
2. A valid Iowa nonoperator's identification card.

(3) Full name, address, and telephone number of the patient's neurologist.

(4) Full legal name, residence address, date of birth, and telephone number of each primary caregiver of the patient, if any.

(5) An attestation as to the truthfulness and accuracy of the information provided by the patient on the application.

154.3(2) Upon the completion, verification, and approval of the patient's application, the department shall notify the department of transportation that the patient may be issued a cannabidiol registration card.

154.3(3) A cannabidiol registration card issued to a patient by the department of transportation shall contain all of the following:

a. The patient's full legal name, Iowa residence address, date of birth, and sex designation, as shown on the patient's Iowa driver's license or nonoperator's identification card. If the patient's name, Iowa residence address, date of birth, or sex designation has changed since the issuance of the patient's Iowa driver's license or nonoperator's identification card, the patient shall first update the patient's Iowa driver's license or nonoperator's identification card to reflect the current information, according to the procedures set forth in 761—subrule 605.11(2), 761—subrule 605.25(4), or rule 761—630.3(321).

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- b.* The date of issuance and the date of expiration.
- c.* A distinguishing registration number that is not the patient's social security number.
- d.* The patient's signature. The signature shall be without qualification and shall contain only the patient's usual signature without any other titles, characters, or symbols. The patient's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the patient's application for a cannabidiol registration card are true and correct. The patient's signature shall be captured electronically.
- e.* A color photograph of the patient.
- f.* A statement that the cannabidiol registration card is not valid for identification purposes.

154.3(4) A patient in possession of a valid cannabidiol registration card issued pursuant to this rule shall not possess a quantity of cannabidiol oil in excess of 32 ounces.

154.3(5) An authorization to use cannabidiol or marijuana for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of 2014 Iowa Acts, Senate File 2360, or these rules for the issuance of a cannabidiol registration card.

641—154.4(85GA,SF2360) Cannabidiol registration card—application and issuance to primary caregiver.

154.4(1) For a patient in a primary caregiver's care, the department may approve the issuance of a cannabidiol registration card by the department of transportation to a primary caregiver who:

- a.* Is at least 18 years of age.
- b.* Requests the patient's neurologist to submit to the department, pursuant to rule 641—154.2(85GA,SF2360), a written recommendation signed by the neurologist that the patient may benefit from the medical use of cannabidiol pursuant to 2014 Iowa Acts, Senate File 2360, section 4.
- c.* Is listed as a primary caregiver on the application form submitted to the department, on a form created by the department in consultation with the department of transportation and available at the department's Web site (www.idph.state.ia.us) that contains all of the following:

(1) The primary caregiver's full legal name, residence address, mailing address (if different from the primary caregiver's residence address), telephone number, date of birth, and sex designation. The primary caregiver shall not provide as a mailing address an address for which a forwarding order is in place.

(2) The patient's full legal name.

(3) A copy of the primary caregiver's valid photo identification. Acceptable identification includes:

- 1. A valid Iowa driver's license, or
- 2. A valid Iowa nonoperator's identification card, or
- 3. A state-issued driver's license or nonoperator's identification card.

(4) Full name, address, and telephone number of the patient's neurologist.

(5) An attestation as to the truthfulness and accuracy of the information provided by the primary caregiver on the application.

154.4(2) Upon the completion, verification, and approval of the primary caregiver's application, the department shall notify the department of transportation that the primary caregiver may be issued a cannabidiol registration card.

154.4(3) A cannabidiol registration card issued to a primary caregiver by the department of transportation shall contain all of the following:

a. The primary caregiver's full legal name, current residence address, date of birth, and sex designation, as shown on the primary caregiver's state-issued driver's license or nonoperator's identification card. If the primary caregiver's name, current residence address, date of birth, or sex designation has changed since issuance of the primary caregiver's Iowa-issued driver's license or nonoperator's identification card, the primary caregiver shall first update the primary caregiver's Iowa-issued driver's license or nonoperator's identification card according to the procedures set forth in 761—subrule 605.11(2), 761—subrule 605.25(4), or rule 761—630.3(321). If the primary caregiver is a resident of a state other than Iowa, the primary caregiver shall update the primary caregiver's

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state-issued driver's license or nonoperator's identification card according to the procedures established in the primary caregiver's state of residence.

- b. The date of issuance and the date of expiration.
- c. A distinguishing registration number that is not the primary caregiver's social security number.
- d. The primary caregiver's signature. The signature shall be without qualification and shall contain only the primary caregiver's usual signature without any other titles, characters, or symbols. The primary caregiver's signature certifies, under penalty of perjury and pursuant to the laws of the state of Iowa, that the statements made and information provided in the primary caregiver's application for a cannabidiol registration card are true and correct. The primary caregiver's signature shall be captured electronically.
- e. A color photograph of the primary caregiver.
- f. A statement that the cannabidiol registration card is not valid for identification purposes.
- g. A statement distinguishing the cannabidiol registration cardholder as a primary caregiver.
- h. The full name of each patient in the primary caregiver's care, as approved by the department in its notice to the department of transportation.

154.4(4) A primary caregiver in possession of a valid cannabidiol registration card issued pursuant to this rule shall not possess a quantity of cannabidiol oil in excess of 32 ounces per patient.

154.4(5) An authorization to use, or to act as a primary caregiver for a patient authorized to use, cannabidiol or marijuana for medicinal purposes issued by another state, territory, or jurisdiction does not satisfy the requirements of 2014 Iowa Acts, Senate File 2360, or these rules for the issuance of a cannabidiol registration card.

641—154.5(85GA,SF2360) Tamperproofing. The department of transportation shall issue a cannabidiol registration card by a method or process which prevents as nearly as possible the alteration, reproduction, or superimposition of a photograph on the cannabidiol registration card without ready detection.

641—154.6(85GA,SF2360) Denial and cancellation. The department may deny an application for a cannabidiol registration card, or may cancel or direct the department of transportation to cancel a cannabidiol registration card, for any of the following reasons:

1. Information contained in the application is illegible, incomplete, falsified, misleading, deceptive, or untrue.
2. The applicant violates or fails to satisfy any of the provisions of 2014 Iowa Acts, Senate File 2360, or these rules.

641—154.7(85GA,SF2360) Appeal. If the department denies an application for or cancels a cannabidiol registration card, the department shall inform the applicant or cardholder of the denial or cancellation and state the reasons for the denial or cancellation in writing. An applicant or cardholder may appeal the denial or cancellation of a cannabidiol registration card by submitting a request for appeal to the department by certified mail, return receipt requested, within 20 days of receipt of the notice of denial or cancellation. The department's address is Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075. Upon receipt of a request for appeal, the department shall forward the request within five working days to the department of inspections and appeals. A contested case hearing shall be conducted in accordance with 641—Chapter 173.

641—154.8(85GA,SF2360) Duplicate card.

154.8(1) *Lost, stolen, or destroyed card.* To replace a cannabidiol registration card that is lost, stolen, or destroyed, a cardholder shall present to the department of transportation the cardholder's valid state-issued driver's license or nonoperator's identification card.

154.8(2) *Change in card information and voluntary replacement.*

a. To replace a cannabidiol registration card that is damaged, the cardholder shall surrender to the department of transportation the card to be replaced and present the cardholder's valid state-issued driver's license or nonoperator's identification card.

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b. A patient or primary caregiver to whom a cannabidiol registration card is issued shall notify the department of a change in current residence address, name, or sex designation listed on the card, within ten calendar days of the change. To replace a cannabidiol registration card to change the current residence address, name, or sex designation listed on the card, the cardholder shall surrender to the department of transportation the card to be replaced and present a valid state-issued driver's license or nonoperator's identification card that has been updated according to the procedures established by the state of issuance to reflect the requested residence address, name, or sex designation.

c. To replace a cannabidiol registration card held by a primary caregiver to change the patient or patients listed on the primary caregiver's card, the primary caregiver shall submit a new application to the department pursuant to rule 641—154.4(85GA,SF2360). A cannabidiol registration card issued pursuant to this paragraph shall not be considered a duplicate card.

154.8(3) Expiration date. A duplicate cannabidiol registration card shall have the same expiration date as the cannabidiol registration card being replaced, changed, or amended.

154.8(4) Iowa residents. A cardholder who is a resident of the state of Iowa must present an Iowa driver's license or nonoperator's identification card issued by the department of transportation. An Iowa resident may meet the requirement to present an Iowa driver's license or nonoperator's identification card by contemporaneously completing an application for a renewal or duplicate of an Iowa driver's license that meets the requirements of this subrule and has been approved by the department of transportation.

641—154.9(85GA,SF2360) Renewal. A cannabidiol registration card shall be valid for one year from the date of issuance unless canceled pursuant to rule 641—154.6(85GA,SF2360).

154.9(1) A cardholder seeking renewal of a cannabidiol registration card shall submit an application to the department at least 60 days prior to the date of expiration.

a. A patient applying for renewal of a cannabidiol registration card shall follow the procedure established in rule 641—154.3(85GA,SF2360).

b. A primary caregiver applying for a renewal of a cannabidiol registration card shall follow the procedure established in rule 641—154.4(85GA,SF2360).

154.9(2) A cardholder who fails to renew the cannabidiol registration card may not lawfully possess cannabidiol pursuant to this chapter.

641—154.10(85GA,SF2360) Confidentiality. The department shall maintain a confidential file of the names of each patient to or for whom the department approves the issuance of a cannabidiol registration card and the name of each primary caregiver to whom the department issues a cannabidiol registration card under 2014 Iowa Acts, Senate File 2360, section 5.

154.10(1) Personally identifiable information of patients and primary caregivers shall be maintained as confidential and is not accessible to the public.

154.10(2) Personally identifiable information of patients and primary caregivers may be disclosed under the following limited circumstances:

a. To authorized employees or agents of the department and the department of transportation as necessary to perform the duties of the department and the department of transportation pursuant to this chapter.

b. To authorized employees of state or local law enforcement agencies located in Iowa, solely for the purpose of verifying that a person is lawfully in possession of a cannabidiol registration card issued pursuant to this chapter.

c. To a patient, primary caregiver, or neurologist, upon written authorization of the patient or primary caregiver.

641—154.11(85GA,SF2360) Agreement with department of transportation. The department may enter into a chapter 28E agreement with the department of transportation to facilitate the issuance of cannabidiol registration cards. The agreement may include provisions which govern the issuance, denial,

PUBLIC HEALTH DEPARTMENT[641](cont'd)

and cancellation of cannabidiol registration cards and the sharing of information between the department and the department of transportation.

These rules are intended to implement 2014 Iowa Acts, Senate File 2360.

TRANSPORTATION DEPARTMENT

Advisory Notice

Adjusted Bid Thresholds for City and County Highway, Bridge, and Culvert Construction, Reconstruction and Improvement Projects

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects. The adjusted bid threshold values will become effective January 1, 2015.

The horizontal infrastructure bid threshold subcommittee, composed of three contractors, two county representatives, one city representative and the Director's designee, held a meeting on July 7, 2014, to review bid thresholds. After a review of the construction price index, the subcommittee made the following three adjustments to bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects:

1. The county bid threshold in Iowa Code section 309.40 will be adjusted from \$91,000 to \$93,000 effective January 1, 2015.
2. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of 50,000 or less will be adjusted from \$49,000 to \$50,000 effective January 1, 2015.
3. The bid threshold in Iowa Code section 314.1, subsection 2, for cities with a population of more than 50,000 will be adjusted from \$70,000 to \$72,000 effective January 1, 2015.

All other bid thresholds for city and county highway, bridge, and culvert construction, reconstruction and improvement projects that are not addressed in this advisory notice will remain as currently stated in the appropriate Iowa Code sections.

TRANSPORTATION DEPARTMENT

Advisory Notice

Adjusted Competitive Bid and Quotation Thresholds for Vertical Infrastructure Public Improvements

Pursuant to the authority of Iowa Code section 314.1B, the Director of Transportation gives an advisory notice of adjusted competitive bid and quotation thresholds for vertical infrastructure public improvements. The adjusted competitive bid and quotation threshold values will become effective January 1, 2015.

The vertical infrastructure bid threshold subcommittee, composed of three contractors, three representatives of public entities and the Director's designee, held a meeting on July 2, 2014, to review competitive bid and quotation thresholds. The vertical infrastructure bid threshold subcommittee made the following adjustments to the competitive bid and quotation thresholds listed in Iowa Code sections 26.3 and 26.14:

1. The competitive bid threshold will be adjusted to \$135,000 effective January 1, 2015.
2. The competitive quotation threshold for counties, including county hospitals, will be adjusted to \$100,000 effective January 1, 2015.

TRANSPORTATION DEPARTMENT(cont'd)

3. The competitive quotation threshold for cities having a population of 50,000 or more will be adjusted to \$75,000 effective January 1, 2015.
4. The competitive quotation threshold for school districts having a population of 50,000 or more will be adjusted to \$75,000 effective January 1, 2015.
5. The competitive quotation threshold for aviation authorities created within cities having a population of 50,000 or more will be adjusted to \$75,000 effective January 1, 2015.
6. The competitive quotation threshold for cities having a population of less than 50,000, for school districts having a population of less than 50,000, and for other governmental entities will be adjusted to \$55,000 effective January 1, 2015.

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:

August 1, 2013 — August 31, 2013	4.25%
September 1, 2013 — September 30, 2013	4.50%
October 1, 2013 — October 31, 2013	4.75%
November 1, 2013 — November 30, 2013	4.75%
December 1, 2013 — December 31, 2013	4.50%
January 1, 2014 — January 31, 2014	4.75%
February 1, 2014 — February 28, 2014	5.00%
March 1, 2014 — March 31, 2014	4.75%
April 1, 2014 — April 30, 2014	4.75%
May 1, 2014 — May 31, 2014	4.75%
June 1, 2014 — June 30, 2014	4.75%
July 1, 2014 — July 31, 2014	4.50%
August 1, 2014 — August 31, 2014	4.50%

ARC 1563C**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, 476.2, and 476.102 and 47 U.S.C. Section 214(e), the Utilities Board (Board) gives notice that on July 17, 2014, the Board issued an order in Docket No. RMU-2014-0002, In re: Eligibility, Certification, and Reporting Requirements for Eligible Telecommunications Carriers and Related Confidentiality Provisions [199 IAC Chapters 1 and 39] “Order Commencing Rule Making,” proposing to update the Board’s rules governing its designation of telecommunications carriers as eligible to receive support from the federal universal service fund. Under federal law, state utility regulatory commissions have primary responsibility for designating which telecommunications carriers are eligible to receive support from the federal universal service fund. The Board’s rules governing designation of eligible telecommunications carriers (ETCs) are found at 199 IAC 39. The proposed amendments are necessary to eliminate outdated provisions, to

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align the Board's rules with recent reforms to the federal universal service fund, and to clarify the process by which telecommunications carriers seeking an ETC designation from the Board apply for the designation.

To develop the proposed amendments, the Board sought early input from stakeholders. On March 4, 2014, the Board sent an e-mail to affected telecommunications companies, their associations, and the Consumer Advocate Division of the Department of Justice explaining the Board's intent to update its ETC rules and asking several questions about how the Board's rules should be revised. The Board received five responses to the e-mail inquiry. Generally, the responses agreed that the rules needed to be revised and offered preliminary suggestions for how to coordinate the Board's rules with federal eligibility and reporting requirements for the federal high-cost and Lifeline universal service programs.

The order approving this Notice of Intended Action can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0002.

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 September 10, 2014. The statement should be filed electronically through the Board's 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.

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 9 a.m. on October 28, 2014, 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)725-7331 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).

The following amendments are proposed.

ITEM 1. Amend paragraph **1.9(5)"c"** as follows:

c. Materials exempted pursuant to requests deemed granted by the board. Requests to withhold from public inspection material or information that contains negotiated transportation rates and prices for natural gas supply, reservation charges for portfolio gas supply contracts, and terms and prices for all hedging activity including both financial hedges and weather-related information included in monthly purchased gas adjustment filings, annual purchase gas adjustment filings, annual purchased gas adjustment reconciliations, periodic filings related to changes in purchased gas adjustment factors, negotiated purchase prices for electric power, fuel, and transportation, customer-specific information, power supply bills in support of energy adjustment clause filings, network improvement and maintenance plans and related extensions and progress reports, filed with the board pursuant to 199—paragraph 39.7(3)"d," wireless coverage area maps, depicting signal strength filed with the board pursuant to 199—paragraph 39.3(2)"g," ~~service outage reports filed with the board pursuant to 199 IAC 39.5(5),~~ revenue recovery amounts filed with the board pursuant to 199—subrule 39.7(2), financial reports filed with the board pursuant to 199—paragraph 39.7(3)"a," or the financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service shall be deemed granted pursuant to Iowa Code section 22.7(3), as a trade secret, or pursuant to Iowa Code section 22.7(6), as a report to a government agency which, if released, would benefit competitors and would serve no public purpose, or pursuant to both sections, provided that the confidential portions of the filings are identified and segregated and an attorney for the company or a corporate officer avers

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that those portions satisfy Iowa Code section 22.7(3) or 22.7(6), or both, as interpreted by the Iowa Supreme Court. The information shall be held confidential by the board upon filing and will be subject to the provisions of ~~199 IAC~~ subparagraph 1.9(8)“b”(3).

ITEM 2. Rescind 199—Chapter 39 and adopt the following new chapter in lieu thereof:

CHAPTER 39
UNIVERSAL SERVICE

199—39.1(476) Authority and purpose. These rules relate to the board’s designation of telecommunications carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15 and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board’s authority to designate eligible telecommunications carriers (ETCs). These rules establish procedures for applying for designation as an eligible telecommunications carrier and for relinquishing such designation; adopt service requirements for eligible telecommunications carriers; and establish state certification and reporting requirements consistent with federal requirements.

199—39.2(476) Definition of terms. For the purposes of the board’s implementation of federal universal service fund requirements, the following definitions apply:

“*Competitive eligible telecommunications carrier*” means a carrier that meets the definition of an “eligible telecommunications carrier” below and does not meet the definition of an “incumbent local exchange carrier” in 47 CFR 51.5 as amended to March 11, 2005.

“*Connect America fund*” or “*CAF*” means the federal universal service fund, as reformed by the Federal Communications Commission, to phase down and replace support previously provided through high-cost mechanisms. The CAF is intended to make broadband available to homes, businesses, and community anchor institutions in areas that do not or otherwise would not have broadband, including services provided through mobile voice and broadband networks. The CAF also facilitates intercarrier compensation reforms intended to curb arbitrage practices and to ultimately impose a uniform national bill-and-keep framework.

“*Eligible telecommunications carrier*” or “*eligible carrier*” means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

“*Facilities*” means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support.

“*Federal poverty guidelines*” means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

“*High-cost program*” means the component of the federal universal service fund that includes the following support mechanisms: high-cost loop support, safety net support, safety valve support, local switching support, interstate common line support, high-cost model support, interstate access support, and the connect America fund, which includes funding to support and advance networks that provide voice and broadband services, both fixed and mobile.

“*High-cost support*” means those support mechanisms in existence as of October 1, 2011, specifically, high-cost loop support, safety net additive support and safety valve support provided pursuant to 47 CFR Part 36, Subpart F; local switching support pursuant to 47 CFR § 54.301 as amended to April 9, 2012; forward-looking support pursuant to 47 CFR § 54.309 as amended to March 31, 2014; interstate access support pursuant to 47 CFR §§ 54.800 through 54.809 as amended to May 15, 2014; interstate common line support pursuant to 47 CFR §§ 54.901 through 54.904 as amended to June 5, 2013; support provided pursuant to 47 CFR §§ 51.915, 51.917, and 54.304 as amended to June 5, 2013; support provided to competitive eligible telecommunications carriers as set forth in 47 CFR § 54.307(e) as amended to October 1, 2012; connect America fund support provided pursuant to 47 CFR § 54.312 as amended to August 9, 2013; and mobility fund support provided pursuant to 47 CFR Part 54, Subpart L.

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“*Lifeline-only ETC*” means a telecommunications carrier that seeks limited designation as an ETC only to participate in the Lifeline program.

“*Lifeline program*” means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401 as amended to May 1, 2012, to mean a nontransferable retail service offering (1) for which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in 47 CFR § 54.403 as amended to May 1, 2012, and (2) which provides qualifying low-income consumers with voice telephony service as defined in 47 CFR § 54.101(a) as amended to April 2, 2012.

“*Mobility fund*” means the wireless component of the connect America fund which provides support for the extension of mobile broadband networks in otherwise unserved areas.

“*National Lifeline accountability database*” means the electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Federal Communications Commission and as defined in 47 CFR § 54.400 as amended to April 2, 2012.

“*Qualifying low-income consumer*” means a consumer who meets the qualifications for Lifeline as specified in 47 CFR § 54.409 as amended to June 28, 2012.

“*Tribal Link Up*” means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on tribal lands, that provides a reduction of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber’s principal place of residence and a deferred schedule of payments of the customary charge for commencing telecommunications service as defined in 47 CFR § 54.413(a) as amended to April 1, 2012.

“*Voice telephony service*” means the service designated by the Federal Communications Commission at 47 CFR § 54.101 as amended to April 2, 2012, as eligible for support by the federal universal service support mechanisms. “Voice telephony service” is service which provides:

1. Voice grade access to the public switched network or its functional equivalent;
2. Minutes of use for local service at no additional charge to end users; and
3. Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems.

199—39.3(476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A telecommunications carrier must be designated as an ETC to qualify for support from the federal universal service fund. The Iowa utilities board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. An ETC designation is not transferable. Where a telecommunications carrier acquires another carrier with an ETC designation, through a sale or transfer, the acquiring company must apply for an ETC designation.

39.3(2) An application for an ETC designation must contain the following:

a. Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.

b. A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the Federal Communications Commission (FCC).

c. A certification that the applicant offers or intends to offer all services designated for support throughout the applicant’s approved service area. The services designated for support are identified in 47 CFR § 54.101 as amended to April 2, 2012.

d. An explanation of how the carrier will provide voice telephony service as defined in 199—39.2(476) and 47 CFR § 54.101 as amended to April 2, 2012.

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e. A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. Except for wireless resellers seeking ETC designation for Lifeline purposes only that have obtained FCC approval of a compliance plan and committed to certain 911 conditions, the board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

f. A description of how the applicant advertises the availability of supported services and the charges therefore using media of general distribution.

g. A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—paragraph 1.9(5) "c."

h. Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR 51.5 as amended to March 11, 2005, a demonstration that the requested designation is in the public interest.

i. A five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Applicants seeking designation only for purposes of receiving support from the Lifeline program are not required to submit a network improvement plan.

j. A demonstration of how the applicant will remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

k. A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.

l. A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Disclose rates and terms of service to consumers. For each service plan offered to new consumers, wireless carriers will disclose to consumers at point of sale and on their Web sites at least the following information, as applicable: (a) the coverage area for the service; (b) any activation or initiation fee; (c) the monthly access fee or base charge; (d) the amount and nature of any voice, messaging, or data allowances included in the plan (such as night and weekend minutes); (e) the charges for domestic usage in excess of any included allowances or outside of the coverage area; (f) for prepaid service plans, the period of time during which any balance is available for use; (g) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer's wireless data experience; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) the amount or nature of any late payment fee; (k) whether a fixed-term contract is required and its duration; (l) the amount and nature of any early termination fee that may apply; and (m) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable return policy.

(2) Make available maps showing where service is generally available. Wireless carriers will make available at point of sale and on their Web sites maps depicting approximate domestic coverage applicable to each of their service plans currently offered to consumers. To enable consumers to make

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comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain or link to an appropriate legend concerning limitations or variations, or both, in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request from roaming partners and incorporate coverage maps that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates new service or a change in existing service, the carrier will provide or confirm any new material terms and conditions of the ongoing service with the customer.

(4) Allow a trial period for new service. When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return policies and exchange policies. Other charges, including usage charges, may still apply.

(5) Provide specific disclosures in advertising. In advertising of prices for wireless service plans or devices, wireless carriers will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (a) whether activation or initiation fees apply; (b) monthly access fees or base charges; (c) the amount and nature of any voice, messaging, or data service allowances included in the plan; (d) the charges for any domestic usage in excess of any included allowances or outside of the coverage area; (e) for prepaid service plans, the period of time during which any balance is available for use; (f) whether there are network management practices that will have a material impact on the customer's wireless data experience; (g) whether any additional taxes, fees or surcharges apply; (h) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (i) whether a fixed-term contract is required and its duration; (j) early termination fees; (k) the terms and conditions related to receiving a product or service for "free"; (l) for any service plan advertised as "nationwide" (or using similar terms), the carrier will have available substantiation for this claim; and (m) whether prices or benefits apply only for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

(6) Separately identify carrier charges from taxes on billing statements. On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal, state or local governments. Carriers will not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers will not modify the material terms of their postpaid customers' contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

(8) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' Web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall

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inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in 199—Chapter 6, “Complaint Procedures,” shall be followed to enforce the minimum consumer protection standards in paragraph 39.3(2) “l.” When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online. Each wireless carrier will abide by the Cellular Telecommunications and Internet Association’s Best Practices and Guidelines for Location-Based Services.

(11) Provide consumers with free notifications for voice, data and messaging usage, and international roaming. Each wireless provider will provide, at no charge: (a) a notification to consumers of currently offered and future domestic wireless plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; (b) a notification to consumers of currently offered and future domestic voice and messaging plans that include limited voice and messaging allowances when consumers approach and exceed their allowance for those services and will incur overage charges; and (c) a notification to consumers without an international roaming plan/package whose devices have registered abroad and who may incur charges for international usage. Wireless providers will generate the notifications described above to postpaid consumers based on information available at the time the notification is sent. Wireless consumers will not have to affirmatively sign up in order for these notifications to be sent. Wireless providers will clearly and conspicuously disclose tools or services that enable consumers to track, monitor or set limits on voice, messaging and data usage.

(12) Abide by the mobile wireless device unlocking standards established in the Cellular Telecommunications and Internet Association’s Consumer Code for Wireless Service.

m. For applications from wireless carriers seeking designation as an ETC, a certification that the wireless carrier will contribute to the dual party relay service, as provided in Iowa Code section 477C.7(2) “a.”

n. For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

199—39.4(476) Lifeline-only applicants. Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

39.4(1) *Approved compliance plan required.* The applicant shall submit a copy of a compliance plan submitted to the Federal Communications Commission and a copy of the Commission’s notice of approval.

39.4(2) *Terms and conditions of voice telephony service offered to Lifeline subscribers.* The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers plans to Lifeline subscribers that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

39.4(3) *Demonstration of financial and technical capability to provide supported services.* The applicant shall demonstrate that it is financially and technically capable of providing the supported

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Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h) as amended to April 2, 2012. Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state.

199—39.5(476) Service area.

39.5(1) Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

39.5(2) In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under Section 410(c) of the Telecommunications Act of 1996, establish a different definition of service area for such company.

39.5(3) In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).

39.6(1) *Carrier obligation to offer Lifeline.* Pursuant to 47 CFR § 54.405 as amended to May 1, 2012, which specifies the Lifeline obligations of eligible telecommunications carriers, all eligible telecommunications carriers must make available Lifeline service, as defined in 47 CFR § 54.401 as amended to May 1, 2012, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409 as amended to June 28, 2012.

39.6(2) *Inclusion of Lifeline offering in contracts.* Eligible telecommunications carriers shall include a description of their Lifeline offerings in their agreements to provide service to customers. Eligible telecommunications carriers shall file with the board copies of their current customer service agreements.

39.6(3) *Consumer qualification for Lifeline.* To constitute a qualifying low-income consumer, a consumer’s household income as defined in 47 CFR § 54.400(f) and (h) as amended to April 2, 2012, must be at or below 135 percent of the federal poverty guidelines for a household of that size or such percentage as may be determined by the FCC or the consumer, one or more of the consumer’s dependents, or the consumer’s household must participate in one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program’s free lunch program; or Temporary Assistance for Needy Families. A consumer who lives on tribal lands is eligible for Lifeline service as a qualifying low-income consumer if the consumer meets the qualifications for Lifeline specified in 47 CFR § 54.409(a) as amended to June 28, 2012, or if the consumer, one or more of the consumer’s dependents, or the consumer’s household participates in one of the following tribal-specific federal assistance programs specified in 47 CFR § 54.409(b) as amended to June 28, 2012: Bureau of Indian Affairs general assistance; tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations. A consumer may only receive Lifeline service from one telephone provider per household.

39.6(4) *Determination of subscriber eligibility.* Iowa eligible telecommunications carriers are responsible for establishing consumer eligibility for Lifeline assistance. Iowa eligible telecommunications carriers shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410 as amended to August 8, 2013. Eligible telecommunications carriers shall:

a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;

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b. Confirm a subscriber's income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);

c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and

d. Recertify all subscribers' Lifeline eligibility annually and at 90-day intervals (where subscribers have provided a temporary address) in accordance with 47 CFR § 54.410(f) and (g) as amended to August 8, 2013.

39.6(5) Annual certifications by eligible telecommunications carriers. Eligible telecommunications carriers shall make and submit to the Universal Service Administrative Company (USAC) annual certifications relating to the Lifeline program as required by 47 CFR § 54.416 as amended to June 28, 2012. Eligible telecommunications carriers shall file their annual Lifeline certifications with the board as provided in 39.7(1)“a” and, if applicable, with the relevant tribal governments.

39.6(6) Tribal Link Up. A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program, as defined in 199—39.2(476), to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e) as amended to April 2, 2012, must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber's residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413 as amended to April 1, 2012. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410 as amended to August 8, 2013.

39.6(7) Audits. Eligible telecommunications carriers shall file with the board finalized reports of audits conducted pursuant to 47 CFR § 54.420 as amended to June 28, 2012, requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

199—39.7(476) Schedule of filings.**39.7(1) Annual Lifeline compliance certifications.**

a. *Federal Form 555.* On or before January 31 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's certification of compliance with federal Lifeline rules filed with the Federal Communications Commission and the Universal Service Administrative Company pursuant to 47 CFR § 54.416 as amended to June 28, 2012, using Federal Form 555.

b. *Filing instructions.* FCC Form 555 shall be filed using the board's electronic filing system in accordance with 199—14.9(17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled “Annual Lifeline Eligible Telecommunications Carrier Certification,” with a reference to the year for which the certification is filed. The document title for the FCC form shall be “FCC Form 555 Filing.” The board's records and information center will assign each filing an FLR docket number, signifying “Federal Lifeline Report.” The annual Lifeline compliance certifications are not subject to protection from public disclosure.

39.7(2) Annual eligible recovery certifications. On or before the date on which carriers file their access tariffs with the FCC, each price cap and rate-of-return carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board certifications of eligible recovery amounts as follows, as required by 47 CFR § 54.304(c) and (d) as amended to June 5, 2013.

a. *Price cap carriers.* Each price cap carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.915 as amended to June 5, 2013, and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

b. *Rate-of-return carriers.* Each rate-of-return carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund

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intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.917 as amended to June 5, 2013, and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

c. Filing instructions. The annual eligible recovery certifications shall be filed using the board's electronic filing system in accordance with 199—14.9(17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Connect America Fund – Intercarrier Compensation Recovery and Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "Annual Reporting Requirements for Section 54.304." The board's records and information center will assign each filing an "ETR" docket number, signifying "Eligible Telecommunications Carrier Report."

d. Confidential information. Requests to withhold from public inspection revenue recovery amounts will be deemed granted as provided in 199—paragraph 1.9(5) "c."

39.7(3) Annual reporting requirements.

a. Federal Form 481. On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.313 as amended to March 31, 2014 (for ETCs receiving high-cost support), or 47 CFR § 54.422(a) as amended to June 28, 2012 (for ETCs receiving Lifeline support only), using Federal Form 481 or such other form designated by the FCC as the form for the annual report for ETCs.

b. Federal Form 690. On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) and that receives mobility fund support shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.1009 as amended to July 26, 2013.

c. Annual certifications from carriers seeking to continue to receive high-cost support. Any carrier seeking to continue to receive federal high-cost universal service support shall file with the board no later than July 1 of each year an affidavit titled "Certification of [Company Name]." The company name shall be the name used on the carrier's initial application for ETC designation and its current name, if its name has changed.

(1) Contents of affidavit. The affidavit shall include the study area code (SAC) number associated with the company. The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer. The affidavit shall certify that the carrier has used and will use the high-cost support the carrier receives pursuant to 47 CFR Subchapter B, Part 54, Subparts D and L, and as defined in 47 CFR § 54.5 as amended to April 1, 2013, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, the affidavit shall certify that the carrier has complied with and will continue to comply with applicable service quality standards and consumer protection rules, certify that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, certify that the carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas, and certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within the ETC's designated service area. The affidavit shall also certify to the following: as an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

(2) Certifications subject to complaint or investigation. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

(3) State certification of eligibility. An ETC's certification shall be the basis of the board's certification to the FCC and USAC pursuant to 47 CFR § 54.314 as amended to May 8, 2012, that the ETC has used and will use the support for the purposes intended.

d. Progress reports and extensions on previously filed two-year network improvement and maintenance plans. In addition to any network improvement plans and associated progress reports required by 47 CFR § 54.313 as amended to March 31, 2014, competitive ETCs whose universal service support is being phased down must file with the board progress reports and extensions on previously

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filed two-year network improvement and maintenance plans during the phase-down period. Each competitive ETC subject to this requirement shall file a rolling one-year extension and a progress report on its network improvement and maintenance plan detailing the prior calendar year's activities. The progress report shall include coverage area maps detailing progress toward plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity. If support was used for something other than improving signal quality, coverage, or capacity, the report shall include an explanation of how the support was used. The report shall identify any network improvement targets that have not been met and shall include an explanation of why targets were not met. The report shall indicate if there have not been any changes to the ETC's coverage area and shall include an explanation of why no changes were made. Any reporting of expense and investment information shall include an explanation of how the expenses and investments benefited specific wire centers in the ETC's designated service area. For purposes of this paragraph, "wire center" shall be defined as determined by the North American numbering plan administrator.

e. Filing instructions for annual report filings. FCC Form 481 (including rate floor data filed pursuant to 47 CFR § 54.313(h)), the affidavit certifying compliance, any required network improvement plan progress report and extension, and FCC Form 690 shall be filed using the board's electronic filing system in accordance with 199—14.9(17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Eligible Telecommunications Carrier Reporting Requirements," with a reference to the year for which the report is filed. The document title for the FCC form shall be "FCC Form 481 Filing" or "FCC Form 690 Filing," as appropriate. The document title for the affidavit certifying compliance shall be "Carrier Certification." The document title for any required network improvement plan progress report shall be "Network Improvement Plan Progress Report." The board's records and information center will assign each filing an FER docket number, signifying "Federal ETC Report," and indicating the year of filing and the carrier's company number.

f. Confidential information.

(1) Requests to withhold from public inspection network improvement and maintenance plan extensions and progress reports and financial reports included in the annual report filings will be deemed granted as provided in 199—paragraph 1.9(5) "c."

(2) If a carrier considers other information filed on or with FCC Form 481 to be confidential, the carrier shall file both a public version and a confidential version of the material according to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with FCC Form 481 is based on a protective order issued by the FCC, the carrier's request for confidential treatment shall include a reference to the relevant protective order.

199—39.8(476) Relinquishment of ETC designation.

39.8(1) The board may permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give 90 days' advance notice to the board of such relinquishment.

39.8(2) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the board shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The board shall establish a time, not to exceed

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one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).

ARC 1568C

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.104(5), the Department of Administrative Services (DAS) amends Chapter 4, "Public Records and Fair Information Practices," Chapter 44, "Professional/Trade Dues Deductions," Chapter 52, "Job Classification," Chapter 53, "Pay," Chapter 54, "Recruitment, Application and Examination," Chapter 57, "Appointments," Chapter 60, "Separations, Disciplinary Actions and Reduction in Force," Chapter 63, "Leave," and Chapter 64, "Benefits," Iowa Administrative Code.

The Department of Administrative Services continues its effort to review its administrative rules in accordance with Executive Order 71 by amending certain human resources rules to eliminate conflict with statute, providing for preference for veterans in state employment, aligning rules for the phased retirement program with changes to the Iowa Code, making changes that were negotiated during collective bargaining, and making other revisions that reflect and clarify departmental practice.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 11, 2014, as **ARC 1503C**. No public comment was received. No changes were made to the amendments published under Notice.

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

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

These amendments will become effective September 10, 2014.

The following amendments are adopted.

ITEM 1. Amend rule 11—4.14(8A,22) as follows:

11—4.14(8A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the department by personal identifier in record systems as defined in rule 11—4.1(8A,22). Unless otherwise stated, the authority to maintain the record is provided by ~~2003 Iowa Code Supplement~~ chapter 8A.

4.14(1) to 4.14(3) No change.

4.14(4) Comparison with data from outside the department. Personally identifiable information in systems of records maintained by the department is retrievable through the use of personal identifiers and may be compared with information from outside the department when specified by law. This comparison is allowed in situations including:

a. Determination of any offset of a debtor's income tax refund or rebate for child support recovery or foster care recovery (~~2003 Iowa Code Supplement~~ section 8A.504);

b. Calculation of any offset against an income tax refund or rebate for default on a guaranteed student loan (~~2003 Iowa Code Supplement~~ section 8A.504);

c. Offset from any tax refund or rebate for any liability owed a state agency (~~2003 Iowa Code Supplement~~ section 8A.504);

d. Offset for any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of district court as a criminal fine, civil penalty surcharge, or court costs (~~2003 Iowa Code Supplement~~ section 8A.504).

4.14(5) No change.

4.14(6) Record systems with personally identifiable retrieval. The department maintains the systems or records that contain personally identifiable and confidential information as described in the following paragraphs. The legal authority for the collection of the information is listed with the description or the system.

a. Personnel files. Personnel files are maintained by the department and the employee's appointing authority. An employee may have several files depending on the purpose of the file and the records maintained within the file. Personnel files consist of records that concern individual state employees and their families, as well as applicants for state employment.

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(1) Personnel files contain personal, private, and otherwise confidential records related to: a state employee's employment, performance and discipline and will be maintained as confidential in accordance with Iowa Code section 22.7(11) and any other applicable law.

1. Applicants.
 - ~~Preemployment information, including information gathered during background screenings;~~
 - ~~Test scores.~~
2. Benefits.
 - ~~Employee assistance program participation;~~
 - ~~Wellness program participation;~~
 - ~~Pre-tax programs;~~
 - ~~Health, dental, life, and long-term disability insurance;~~
 - ~~Benefit elections and miscellaneous benefit documents;~~
 - ~~Medical information on the employee or a member of the employee's immediate family;~~
 - ~~Medical information to support the employee's sick leave usage and fitness for duty determinations;~~
 - ~~Deferred compensation;~~
 - ~~Workers' compensation.~~
3. Employee performance and discipline.
 - ~~Investigations incident to the employee's employment;~~
 - ~~Information related to disciplinary actions;~~
 - ~~Complaints, grievances, and appeals;~~
 - ~~Performance planning and evaluation;~~
 - ~~Training; and~~
 - ~~Other information incident to the employment of individuals.~~

(2) ~~These records are collected in accordance with 2003 Iowa Code Supplement chapter 8A, and Iowa Code chapters 8A, 19B, 20, 70A, 85, 85A, 85B, 91A, and 509A; and are confidential records under Iowa Code section 22.7(11) and other law, because the information in the record is private and personal, the disclosure of which would likely result in an unwarranted invasion of the privacy of the subject of the record or the subject's family. It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the subject's family.~~

b. Employee payroll records. The payroll records system consists of records that concern individual state employees and their families.

(1) ~~This system contains the following information:~~

1. ~~Workers' compensation;~~
2. ~~Health, dental, life, and long-term disability insurance;~~
3. ~~Qualified domestic relations orders;~~
4. ~~Charitable contributions;~~
5. ~~Garnishments;~~
6. ~~Pay and benefits;~~
7. ~~Equal employment opportunity;~~
8. ~~Training;~~
9. ~~Deferred compensation; and~~
10. ~~Other information incident to the employment of individuals.~~

(2) (1) ~~Records under the jurisdiction of the department are collected in accordance with 2003 Iowa Code Supplement chapter 8A, and Iowa Code chapters 8A, 19B, 20, 70A, 85, 85A, 85B, 91A, and 509A, and portions are confidential records in part under Iowa Code section 22.7 and other law.~~

(3) (2) ~~These records contain names, social security numbers, and other identifying numbers; and are collected in the form of paper, microfilm, tape, and computer electronic records. Computer Electronic records permit the comparison of personally identifiable information in one record system with that in another system.~~

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c. Vehicle dispatcher files. Vehicle assignments and credit card records may be accessed by personal identifier or by vehicle identification number. Other records which may contain personally identifiable information, but are not retrievable by it, are: mileage reports, auction information, automobile insurance premiums, pool car billings, departmental billing, motor fuel tax refund, and motor oil claims. Records are stored on paper, ~~computer~~ electronically, and on microfilm.

d. Capitol complex parking files. The general services enterprise maintains records concerning parking assignments, decals, gate cards, after-hours building passes, parking tickets, departmental parking coordinators, and hearings and appeals. All records except those related to hearings and appeals may be retrieved by personal identifier data. Records related to hearings and appeals are filed by date of hearing only. Records are stored on paper and ~~computer~~ electronically. Records relating to hearings and appeals are also stored on audio tapes.

e. Annual bid bonds. The printing division maintains a file of annual bid bonds for vendors eligible to bid on printing contracts. The file is alphabetical by vendor name and contains only those papers necessary for execution of the bond. This record is stored on paper only.

f. Telephone directory of state employees. The information technology enterprise maintains a telephone directory of state employees. The directory contains names, department names, business addresses and telephone numbers. The publication also includes private industry information and advertising containing business names, addresses and telephone numbers. This record is stored on both paper and ~~computer~~ electronically.

g. Contracts. These are records pertaining to training, consultants, and other services. These records are collected in accordance with ~~2003 Iowa Code Supplement chapter 8A and Iowa Code chapter chapters 8A and 19B~~, and portions are confidential records ~~in part~~ under Iowa Code section 22.7. These records contain names, social security numbers, and other identifying numbers; and are collected in the form of paper, microfilm, tape, and ~~computer~~ electronic records. ~~Computer~~ Electronic records permit the comparison of personally identifiable information in one record system with that in another system.

h. Vendor files. The department maintains files of vendors eligible to do business with the state of Iowa. Files may contain applications, vendor information booklets, vendor codes, commodity codes, minority-owned vendor identification information, and mailing lists. Records are stored on paper and ~~computer~~ electronically.

4.14(7) Releasable information on state employees. The following information that is maintained in the state payroll system or a personnel file shall be released to the public without the consent of the employee because the information is not considered to be confidential information:

- a.* No change.
- b.* The ~~date~~ dates on which the state employee was employed by state government.
- c.* and *d.* No change.

ITEM 2. Amend subrule 4.18(4) as follows:

4.18(4) The director shall prescribe the forms to be used for collecting and recording information on employees and applicants for employment, as well as the procedures for the completion, processing, ~~retention~~, and release of those forms and records, as well as the information contained on them.

ITEM 3. Amend **11—Chapter 4**, implementation sentence, as follows:

These rules are intended to implement ~~2003 Iowa Code Supplement chapter 8A and Iowa Code chapter chapters 8A and 22~~.

ITEM 4. Amend rule 11—44.2(70A) as follows:

11—44.2(70A) Qualifications. To qualify to receive dues deductions, an association must have and may be required to maintain 100 members or more who are state officers or employees participating in either the centralized payroll system or the department of transportation payroll system. For purposes of meeting the minimum requirements, the association cannot count the enrollment of state officers or employees participating in similar programs that have been authorized by existing Iowa Code sections, by collective bargaining contracts, or by the appropriate governing authority. An association seeking to be qualified must supply officials in charge of each affected payroll system with an alphabetized,

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certified list of the state employees and their social security numbers for whom dues deductions are being requested. The type of dues being requested and the amount and frequency of the deduction must also be noted.

ITEM 5. Amend rule 11—44.11(70A) as follows:

11—44.11(70A) Annual review of participating employees. During September of each year, each participating association must, ~~if requested by the department,~~ supply officials in charge of each affected payroll system with a certified list of all state employees who have a professional/trade association dues deduction. The list must contain the same information required in rule 11—44.2(70A), ~~as it~~ the list will be used by the state to determine if the association continues to have 100 or more employees participating in the program.

If the minimum qualification is not being maintained, written notification ~~will~~ may be provided to the association giving ~~them~~ it 90 days to meet the minimum qualification. If, at the end of the 90-day period, the minimum qualification has not been attained, the dues deduction for all participating employees for that association ~~will~~ may be terminated.

ITEM 6. Amend subrule 52.4(2) as follows:

52.4(2) Position classification decisions shall be based on documented evidence of the performance of a kind and level of work that is permanently assigned and performed ~~over~~ 50 percent or more of the time and that is attributable to a particular job classification.

ITEM 7. Amend subrule 53.4(7) as follows:

53.4(7) Pay corrections. An employee's pay shall be corrected if it is found to be in violation of these rules or a collective bargaining agreement. Corrections shall be made on the first day of a pay period.

a. No change.

b. *Overpayment and underpayment.* If an error results in an employee's being overpaid for wages, except for FICA, state and federal income taxes and IPERS contributions shall be collected. Also, premiums for health, dental and life insurance benefits that have been underpaid shall be subject to collection. An employee may choose to repay the amount from wages in the pay period following discovery of the error, or have the overpayment deducted from succeeding pay periods not to exceed the number of pay periods during which the overpayment occurred, or the employee or appointing authority may submit an alternate repayment plan to the director. The repayment plan shall identify the details of the overpayment, the reasons why the department's recouping the amount of overpayment in the same number of pay periods as those during which the overpayment occurred presents a hardship to the employee, and the terms of the alternate repayment plan. The director shall notify the appointing authority of the decision on the alternate repayment plan. The appointing authority shall submit the repayment plan on forms prescribed by the department beginning with the document correcting the employee's pay. If the employee terminates separates from employment, the amount remaining shall be deducted from wages, vacation payout, applicable sick leave payout and any wage correction payback from IPERS. The collection of overpaid wages shall not result in reducing the employee's pay below relevant state and federal minimum wage statutes for each hour actually worked during the pay period in which the collection of overpaid wages occurs.

ITEM 8. Rescind and reserve subrule **53.6(12)**.

ITEM 9. Rescind and reserve rule **11—53.10(8A)**.

ITEM 10. Amend subrule 53.11(6) as follows:

53.11(6) Holiday hours. Holiday hours that have already been paid at a premium rate shall not be counted in calculating overtime, except as specifically provided for in a collective bargaining agreement.

ITEM 11. Amend **11—Chapter 53**, implementation sentence, as follows:

These rules are intended to implement Iowa Code Supplement sections 8A.401, 8A.402, 8A.411, 8A.413, 8A.417, 8A.418, 8A.439, 8A.455, 8A.456 and 8A.458 chapter 8A, subchapter IV.

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ITEM 12. Amend subrule 54.2(4) as follows:

54.2(4) Application for eligible lists. Persons may apply to be on eligible lists as follows:

a. Promotional lists. Promotional applicants shall meet the minimum qualifications. Promotional applicants may be subject to keyboard examinations, background checks, psychological examinations, and other examinations used for further screening. The following persons may apply to be on promotional eligible lists:

(1) Permanent employees, including permanent employees of the board of regents and community-based corrections;

(2) Persons enrolled in work experience programs who have successfully completed at least 90 calendar days in the program; ~~and~~

(3) Persons who have been formally enrolled in the department's intern development program for a period of at least 90 calendar days; ~~and~~

(4) Disabled veterans who are enrolled in a job training program in accordance with the provisions of rule 11—57.9(8A) and have worked a minimum of 160 hours up to a maximum of 780 hours.

b. No change.

ITEM 13. Amend subrule 54.2(7) as follows:

54.2(7) Qualifications. Applicants must meet the qualifications for the class as well as any selective requirements associated with a particular class or position as indicated in the class description. The director shall determine whether or not an applicant meets such qualifications and requirements.

Applicants and employees may, as a condition of the job, be required to have a current license, certificate, or other evidence of eligibility or qualification. Employees who fail to meet and maintain this requirement shall be subject to discharge in accordance with rule ~~11—57.9(8A)~~ 11—57.10(8A) or 11—subrule 60.2(4).

Any fees associated with obtaining or renewing a license, certificate, or other evidence of eligibility or qualification shall be the responsibility of the applicant or employee unless otherwise provided by statute.

ITEM 14. Amend **11—Chapter 54**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ sections 8A.401, 8A.402, 8A.412 to 8A.414, 8A.416, 8A.452, 8A.453, 8A.456 and 8A.458 chapter 8A, subchapter IV.

ITEM 15. Amend rule 11—57.1(8A) as follows:

11—57.1(8A) Filling vacancies. Unless otherwise provided for in these rules or the Iowa Code, the filling of all vacancies shall be subject to the provisions of these rules. No vacant position in the executive branch shall be filled until the position has been classified in accordance with Iowa Code chapter 8A and these rules.

~~An employee who has participated in the phased retirement program shall not be eligible for permanent employment for hours in excess of those worked at the time of retirement.~~ A former employee who has participated in any early retirement or early termination program shall not be eligible for any state employment, except as provided for in the applicable program.

A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

ITEM 16. Amend rule 11—57.4(8A) as follows:

11—57.4(8A) Temporary appointment. Persons may be appointed with temporary status to any class. They may be paid at any rate of pay within the range for the class to which appointed.

Temporary appointments may be made to temporary positions or to permanent positions, or on an overlap basis to unauthorized positions, and may be made to any class and at any rate of pay within the range for the class to which appointed.

A temporary appointment shall not exceed 780 work hours in a fiscal year.

A temporary employee shall have no rights to appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits, unless the temporary

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employee becomes covered by a collective bargaining agreement, in which case the temporary employee may have rights under the collective bargaining agreement.

A person appointed with temporary status shall only be given another temporary type of appointment to the extent that the total number of hours worked in all temporary and seasonal appointments in any agency in a fiscal year does not exceed 780 hours.

ITEM 17. Amend rule 11—57.7(8A) as follows:

11—57.7(8A) Seasonal appointment. The director may authorize appointing authorities to make seasonal appointments to positions. Seasonal appointments may be made to any class and at any rate of pay within the range for the class to which appointed. Seasonal appointments may, however, be made only during the seasonal period approved by the director for the agency requesting to make the appointment; and must be concluded by the end of that period. To be eligible to make seasonal appointments, the appointing authority must first submit a proposed seasonal period to the director for approval. Such period shall not exceed six months in a fiscal year; however, the appointment may start as early as the beginning of the pay period that includes the first day of the seasonal period and may end as late as the last day of the pay period that includes the last day of the seasonal period.

Persons appointed with seasonal status shall have no rights of to appeal, transfer, promotion, demotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits, unless the temporary employee becomes covered by a collective bargaining agreement, in which case the temporary employee may have rights under the collective bargaining agreement.

~~A person appointed with seasonal status to a classification covered by a collective bargaining agreement shall not work in excess of 780 hours in that status in such a class or classes, nor shall that person accumulate more than 780 hours worked in any combination of temporary statuses in any agency or any combination of agencies during a fiscal year shall only be given another temporary or seasonal appointment to the extent that the total number of hours worked in all temporary and seasonal appointments in any agency in a fiscal year does not exceed 780 hours.~~

ITEM 18. Renumber rule **11—57.9(8A)** as **11—57.10(8A)**.

ITEM 19. Adopt the following **new** rule 11—57.9(8A):

11—57.9(8A) Noncompetitive appointments for disabled veterans. A disabled veteran who satisfactorily completes a federally funded job training program approved by the United States Department of Veterans Affairs in a state agency may be appointed noncompetitively into a vacant position in the job classification in which the veteran has been trained. A person who satisfactorily completes the program is eligible for a noncompetitive appointment with that agency for a period of one year. The appointment will be made in accordance with 11—subparagraph 54.2(4)“a”(4).

ITEM 20. Amend **11—Chapter 57**, implementation sentence, as follows:

~~These rules are intended to implement Iowa Code Supplement sections 8A.401, 8A.402, 8A.411 to 8A.413, 8A.416 to 8A.418, 8A.453, 8A.456 and 8A.458 chapter 8A, subchapter IV.~~

ITEM 21. Rescind and reserve paragraph **60.1(1)“b.”**

ITEM 22. Amend subrule 60.3(2) as follows:

60.3(2) The agency's reduction in force shall conform to the following provisions:

a. and *b.* No change.

~~*e.*—An agency shall not implement a reduction in force until it has first terminated all temporary employees in the same class in the reduction in force unit, as well as those who have probationary status in the same class.~~

~~*c.*~~ *c.* The appointing authority shall develop a plan for the reduction in force and shall submit that plan to the director for approval in advance of the effective date. The plan must be approved by the director before it can become effective. The plan shall include the reason(s) for and the effective date of the reduction in force, the reduction in force unit(s), the reason(s) for choosing the unit(s) if the unit(s) is smaller than a bureau, the number of permanent merit system covered employees by class to

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be eliminated or reduced in hours, the cutoff date for length of service and performance credits to be utilized in determining retention points, and any other information requested by the director.

e. d. The appointing authority shall notify each affected employee in writing of the reduction in force, the reason(s) for it, and the employee's rights under these rules. A copy of the employee's retention points computation worksheet shall be furnished to the employee. The official notifications to affected employees shall be made at least 20 workdays prior to the effective date of the reduction in force unless budgetary limitations require a lesser period of time. These official notifications shall occur only after the agency's reduction in force plan has been approved by the director, unless otherwise authorized by the director.

f. e. The appointing authority shall notify the affected employee(s), in writing, of any options or assignment changes during the various steps in the reduction in force process. In each instance the employee shall have five calendar days following the date of receipt of the notification in which to respond in writing to the appointing authority in order to exercise the rights provided for in this rule that are associated with the reduction in force.

ITEM 23. Amend **11—Chapter 60**, implementation sentence, as follows:

These rules are intended to implement ~~2003~~ Iowa Code Supplement section 8A.413.

ITEM 24. Amend subrule 63.3(11) as follows:

63.3(11) Employees may also use accrued sick leave, not to exceed a total of 40 hours per fiscal year, for the following purposes:

a. When a death occurs in the immediate family;

b. For the temporary care of, or necessary attention to, members of the immediate family.

For purposes of this subrule, "immediate family" means 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.

This leave shall be granted at the convenience of the employee whenever possible and consistent with the staffing needs of the appointing authority.

ITEM 25. Amend subrule 64.6(5) as follows:

64.6(5) *Absolute safeguards of the employer, trustee, their employees, and agents.*

a. Questions of fact. The trustee and the plan administrator are authorized to resolve any questions of fact necessary to decide the participating employee's rights under the plan. An appeal of a decision of the plan administrator shall be made to the trustee, or the trustee's designee, who shall render a final decision on behalf of the plan.

b. Plan construction. The trustee and the plan administrator are authorized to construe the plan and to resolve any ambiguity in the plan and to apply reasonable and fair procedures for the administration of the plan. An appeal of a decision of the plan administrator shall be made to the trustee, ~~who~~ or the trustee's designee, within 30 days of the plan administrator's decision. The trustee, or the trustee's designee, shall render a final decision on behalf of the plan.

c. to e. No change.

ITEM 26. Amend subrule 64.6(8) as follows:

64.6(8) *Disposition of funds while employed.*

a. Unforeseeable emergency. A participating employee may request that the plan administrator allow the withdrawal of some or all of the funds held in the participating employee's account based on an unforeseeable emergency. Forms must be completed and returned to the plan administrator for review in order to consider a withdrawal request. The plan administrator shall determine whether the participating employee's request meets the definition of an unforeseeable emergency as provided for in federal regulations. In addition to being extraordinary and unforeseeable, an unforeseeable emergency must not be reimbursable:

(1) By insurance or otherwise;

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(2) By liquidation of the participating employee's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or

(3) By cessation of deferrals under the plan.

Upon the plan administrator's approval of an unforeseeable emergency distribution, the participating employee will be required to stop current deferrals for a period of no less than six months.

A participating employee who disagrees with the initial denial of a request to withdraw funds on the basis of an unforeseeable emergency may request that the trustee or the trustee's designee reconsider the request by submitting additional written evidence of qualification or reasons why the request for withdrawal of funds from the plan should be approved. All such requests must be in writing and be received by the trustee, or the trustee's designee, within 30 calendar days of the date of the initial denial. Requests received after 30 days will be rejected as untimely, and the initial denial shall become final agency action.

b. and *c.* No change.

[Filed 7/18/14, effective 9/10/14]

[Published 8/6/14]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/6/14.

ARC 1561C

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby amends Chapter 22, "Controlling Pollution," and Chapter 23, "Emission Standards for Contaminants," Iowa Administrative Code.

First, the Commission in this rule making establishes in Chapter 22 best management practices (BMPs) for grain vacuuming operations at small grain elevators. The BMPs include practical activities that owners and operators may use at grain elevators to minimize dust and possible air quality impacts resulting from vacuuming grain out of storage structures. The BMPs were developed through a stakeholder workgroup that was jointly organized by the Department of Natural Resources (Department) and Agribusiness Association of Iowa (AAI) and that included grain elevator operators and grain vacuum (grain vac) vendors.

Second, the Commission adopts changes to Chapter 23 to adopt by reference federal air toxics standards for chemical manufacturing plants and for prepared feeds manufacturing (also known as National Emission Standards for Hazardous Air Pollutants, or NESHAP).

The Commission had originally adopted these standards by reference in 2010. However, Executive Order (EO) 72 rescinded the adoption of these standards concurrent with the rescission of the RICE NESHAP. EO 72 stated that the RICE NESHAP was too costly for small utilities that maintain and operate rarely used emergency engines and the RICE NESHAP requirements could increase electricity rates for consumers. In response to the concerns from Governor Branstad as expressed in EO 72 and concerns from other stakeholders, the U.S. Environmental Protection Agency (EPA) agreed to reconsider the RICE NESHAP. Consequently, EPA updated the RICE NESHAP to provide more circumstances for emergency engines and for engines that participate in electricity management programs to operate under nonemergency conditions. The Commission adopted the updated RICE NESHAP in a previous rule making (see **ARC 1014C**, IAB 9/16/13).

Subsequent to EO 72, EPA updated the NESHAPs adopted in this rule making. The revised NESHAPs generally provide regulatory relief and clarify the previous requirements. The Commission is now adopting these NESHAPs. Upon adoption of the NESHAPs, the Department rather than EPA will be the primary implementation authority for these regulations in Iowa, allowing the Department to provide compliance assistance and outreach to affected facilities as soon as possible.

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Notice of Intended Action was published in the Iowa Administrative Bulletin on May 14, 2014, as **ARC 1458C**, and a public hearing was held on June 16, 2014. The Department received no comments at the public hearing. The Department received two written comments prior to the June 16, 2014, deadline for public comments. One written comment supported the amendments. The other comment, from EPA Region 7, recommended providing clarification in the preamble to the adopted rules. The Commission provides clarification in the preamble, in response to EPA's comments, as noted in the explanation for Item 3 and Item 4 below. The Commission did not make any changes to the adopted amendments from those published under Notice of Intended Action. The Department's Public Participation Responsiveness Summary is available from the Department upon request.

Item 1 amends subparagraph 22.10(3)"a"(2) to revise the BMPs for grain elevators currently adopted by reference. The BMPs for grain elevators are designed to reduce emissions of particulate matter that is less than 10 microns in diameter (PM₁₀), especially dust that crosses the property line and that may adversely affect air quality at nearby businesses or residences. The BMP document includes both facilitywide and equipment-specific practices that apply to both new and existing equipment. The amendment adds to the current BMP document a list of management practices for grain vacuuming operations at grain storage bins. The management practices were developed and recommended by a stakeholder workgroup jointly coordinated by the Department and AAI. The changes to the BMP document are available from the Department, upon request, and at the Department's Web site at <http://www.iowadnr.gov/InsideDNR/RegulatoryAir/StakeholderInvolvement.aspx> (under the Public Input section).

Background

In 2007, the Department worked with AAI and other stakeholders to develop flexible groupings for grain elevators. This collaboration resulted in rules that allowed over 800 owners and operators of small grain elevators (classified as "Group 1" elevators) to complete a one-page registration form rather than apply for an air construction permit. Additionally, the adopted rules (published in the 2/13/08 IAB as **ARC 6599B**) established the BMPs for small grain elevators.

Prior to 2008, most grain facilities used sweep augers to extract the remaining grain from the bottom of storage bins. Beginning in late 2009, the U.S. Occupational Safety and Health Administration (OSHA) sent letters to grain elevators stating that operators could not be inside a grain bin while an unguarded sweep auger operated inside the bin. As a result of the OSHA letters, more facilities use grain vacuuming to remove the remaining grain from storage bins.

With the wider use of grain vacuuming operations, the Department's field offices started receiving dust complaints from residences and businesses located near grain elevators using grain vacs. The Department became concerned about PM₁₀ emissions and dust from increased use of grain vacuuming operations. The Department subsequently partnered with AAI to convene a stakeholder workgroup to develop solutions that address complaints and ensure compliance with air quality regulations. The amendment adopted in Item 1 is the result of this collaborative effort.

Stakeholder Involvement

The Grain Vac Workgroup convened in August 2011. The workgroup consisted of ten participants in addition to representatives from AAI, the Department and the Iowa Department of Agriculture and Land Stewardship. The facility and business participants included representatives from grain elevators and grain vac vendors. The workgroup met two times between August 2011 and June 2012. In addition, the Department conducted three onsite visits to observe grain vac operations.

The adopted amendment revises the document, "Best Management Practices (BMP) for Grain Elevators (December 2007)," adopted by reference in subparagraph 22.10(3)"a"(2). The revisions incorporate management practices for grain vac operations. AAI provided written comments to the Notice of Intended Action in support of the BMPs. The BMPs for grain vac operations will become applicable on September 10, 2014, the effective date of the adopted amendment.

Affected Facilities

The amendment revises the current BMPs for "Group 1" grain elevators and provides the option to include revised BMPs in the permits for new or modified "Group 2" grain elevators.

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Group 1 grain elevators are specifically defined as facilities with PM₁₀ emissions less than 15 tons per year (567—22.10(455B)). Group 1 elevators are typically smaller grain elevators and are often “country grain elevators” that receive 50 percent or more of their grain from nearby farmers during harvest season. The owner or operator of a Group 1 elevator may use the BMP document and the streamlined registration process provided in rule 567—22.10(455B) rather than applying for an air construction permit.

Group 2 grain elevators have potential PM₁₀ emissions between 15 and 50 tons per year. In lieu of using the regular construction permit process, an owner or operator of a Group 2 elevator may complete a shorter application form specific to Group 2 elevators. The facility will receive a Group 2 permit that allows the facility to make certain changes without having to modify the permit. The BMPs included in the Group 2 permit are identical to the BMP document for Group 1 facilities. The amendment will affect only new or modified Group 2 facilities that apply for a new or revised Group 2 permit.

The amendment adds BMPs specific to grain vac operations to the current BMP document. Grain elevators that are not classified as Group 1 or Group 2 elevators are not covered by the proposed amendments. Grain elevators classified as Group 3 or Group 4 in rule 567—22.10(455B), as well as other grain elevators not covered by rule 567—22.10(455B), must obtain air construction permits. Construction permits include requirements specific to the facility and may require BMPs similar to those for Group 1 or Group 2 facilities.

Item 2 amends the introductory paragraph of subrule 23.1(4) to reflect the most current amendment date to 40 Code of Federal Regulations (CFR) Part 63 adopted by reference in Chapter 23. The revised date reflects the amendments described below in Item 3 and Item 4.

Item 3 amends paragraph 23.1(4)“ev” to adopt the federal NESHAP for Chemical Manufacturing at Area Sources (40 CFR Part 63, Subpart VVVVVV). The Commission originally adopted this NESHAP by reference in 2010. However, EO 72 rescinded the adoption of this standard concurrent with the rescission of the RICE NESHAP. Subsequent to EO 72, the EPA revised this NESHAP to provide clarity and regulatory relief to stakeholders. The Commission is now adopting this standard for chemical manufacturing facilities.

Background

In October 2009, EPA finalized the NESHAP for Chemical Manufacturing at Area Sources (Subpart VVVVVV, hereafter referred to as the “6V NESHAP”). The final 6V NESHAP appeared to include ethanol production facilities, but the standards were unclear on several points. In January 2012, EPA agreed to reconsider portions of the 6V NESHAP. On December 21, 2012, EPA issued final amendments to the 6V NESHAP and extended the compliance date until March 2013. With the assistance of the Iowa Renewable Fuels Association (IRFA), the Department determined that current dry-mill corn ethanol production facilities in Iowa are not subject to the 6V NESHAP. At this time, the Department has identified a small number of other chemical manufacturing facilities subject to the 6V NESHAP.

Stakeholder Involvement

Since EPA issued the original 6V NESHAP in October 2009, the Department has worked with IRFA to discuss outstanding applicability issues concerning the federal regulations. The Department met with IRFA to discuss EPA’s revised standards (issued on December 21, 2012) and the potential implications for ethanol production facilities in Iowa. IRFA agreed to work with its members and its national association to gather data on emissions from ethanol production that could potentially trigger 6V NESHAP applicability. Based on the data and analysis that IRFA provided to the Department in May and June 2013, the Department concurred with IRFA that current dry-mill corn ethanol production facilities in Iowa are not subject to the 6V NESHAP.

Affected Facilities

Based on information and analysis compiled by IRFA, the Department has determined that dry-mill corn ethanol production facilities in Iowa are not subject to the 6V NESHAP, and therefore will not have regulatory costs associated with the 6V NESHAP. Five other chemical manufacturing facilities have notified the Department and EPA that they are subject to the 6V NESHAP. Based on information available, it appears that two of these facilities are already complying with the 6V NESHAP. One of the facilities is currently under construction. The compliance status of the other two facilities is unknown.

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Prior to publication of the Notice of Intended Action, EPA Region 7 provided informal recommendations that the Department note in the preamble for the adopted rules that EPA retains concurrent authority to enforce the 6V NESHAP once Iowa becomes the delegated authority. Upon adoption of the 6V NESHAP, the Department rather than EPA will be the primary authority to implement these regulations in Iowa, allowing the Department to provide compliance assistance and outreach to affected facilities as soon as possible. However, EPA retains concurrent authority to implement and enforce the 6V NESHAP in Iowa.

Item 4 amends paragraph 23.1(4)“fd” to adopt the recently amended federal NESHAP for Area Source Standards for Prepared Feeds Manufacturing (40 CFR Part 63, Subpart DDDDDDD, hereafter referred to as the “7D NESHAP”). The Commission originally adopted this NESHAP by reference in 2010. However, EO 72 rescinded the adoption of this standard concurrent with the rescission of the RICE NESHAP. Subsequent to EO 72, the EPA revised this NESHAP standard to provide clarity and regulatory relief to stakeholders. The Commission is now adopting the 7D NESHAP.

Background

In January 2010, EPA published the 7D NESHAP. The 7D NESHAP appeared to cover all feed mills that used chromium and manganese in production, but several provisions of the final standards were unclear. In 2011, EPA agreed to reconsider some provisions of the 7D NESHAP. EPA finalized its reconsideration on December 23, 2011, revising the 7D NESHAP so that feed mills with pellet cooler operations were not required to install new emissions controls if the facility had existing control equipment. The 7D NESHAP compliance date for existing feed mills was January 5, 2012.

Stakeholder Involvement

The Department has worked with AAI since EPA issued the original 7D NESHAP in January 2010. EPA issued final amendments on December 23, 2011, that generally allowed affected feed mills to comply with the 7D NESHAP by following basic housekeeping requirements and using existing emissions control equipment.

Affected Facilities

Based on notifications submitted to EPA and the survey that the University of Northern Iowa (UNI) air emissions assistance program conducted, the Department estimates that approximately 90 facilities in Iowa are subject to the 7D NESHAP. The majority of these facilities are subject only to basic housekeeping requirements. The Department estimates that 20 of these facilities are required to control particulate emissions (a surrogate for manganese and chromium emissions) from pellet cooling operations. Most of these facilities have submitted the required notifications to EPA and the Department indicating the facilities are in compliance with the 7D NESHAP. The 7D NESHAP requires all subject facilities to undertake additional monitoring, record keeping, and reporting.

Prior to publication of the Notice of Intended Action, EPA Region 7 provided informal recommendations that the Department note in the preamble for the adopted rules that EPA retains concurrent authority to enforce the 7D NESHAP once Iowa becomes the delegated authority. Upon adoption of the 7D NESHAP, the Department rather than EPA will be the primary authority to implement these regulations in Iowa, allowing the Department to provide compliance assistance and outreach to affected facilities as soon as possible. However, EPA retains concurrent authority to implement and enforce the 7D NESHAP in Iowa.

Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review, the Department has determined that the amendments will have no impact on private sector jobs and employment opportunities in the state.

Grain Vac BMPs

Grain elevator owners and operators will likely entail costs to control particulate emissions during grain vac operations. However, these costs should be minimal and should not negatively impact jobs at grain elevators. First, the activities listed in the BMP document are simply examples. The grain elevator owner or operator may determine if management activities are necessary to reasonably prevent dust from grain vac operations from crossing the property line and whether any of the examples included

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in the BMP document are appropriate for the facility. The owner or operator may choose to employ different management practices. Second, the BMPs were developed by a stakeholder group consisting of representatives from both grain elevator and grain vac vendors. The workgroup developed practical, cost-effective practices that are already being successfully implemented at some grain elevators. Third, the Department expects that grain elevator owners and operators will choose to implement BMPs only as necessary and will not implement practices at such a frequency or cost to adversely impact jobs at their facilities.

6V NESHAP

Based on information and analysis compiled by IRFA, the Department has determined that dry-mill corn ethanol production facilities in Iowa are not subject to the 6V NESHAP and therefore would not have regulatory costs associated with the 6V NESHAP. The five other facilities potentially affected by the 6V NESHAP may have additional regulatory requirements, but these are not expected to be significant enough to impact jobs.

7D NESHAP

The 7D NESHAP requires all subject facilities to undertake additional monitoring, record keeping, and reporting. However, these requirements are not expected to be sufficient to negatively impact jobs at these facilities.

These amendments are intended to implement Iowa Code section 455B.133.

These amendments will become effective on September 10, 2014.

The following amendments are adopted.

ITEM 1. Amend subparagraph **22.10(3)“a”(2)** as follows:

(2) Best management practices (BMP). The owner or operator of a Group 1 facility shall implement best management practices (BMP) for controlling air pollution at the facility and for limiting fugitive dust at the facility from crossing the property line. The owner or operator shall implement BMP according to the department manual, Best Management Practices (BMP) for Grain Elevators (December 2007; revised July 15, 2014), as adopted by the commission on January 15, 2008, and July 15, 2014, and adopted by reference herein (available from the department, upon request, and on the department's Internet Web site). No later than March 31, 2009, the owner or operator of an existing Group 1 facility shall fully implement applicable BMP, except that BMPs for grain vacuuming operations shall be fully implemented no later than September 10, 2014. Upon startup of equipment at the facility, the owner or operator of a new Group 1 facility shall fully implement applicable BMP.

ITEM 2. Amend subrule 23.1(4), introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through September 19, 2011, December 21, 2012, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses (except for paragraph 23.1(4)“cz,” which specifies a later date for adoption by reference). 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4)“a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are

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subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 3. Amend paragraph **23.1(4)“ev”** as follows:

ev. Emission standards for hazardous air pollutants for area sources: chemical manufacturing. Rescinded IAB 9/19/12, effective 10/24/12. This standard applies to chemical manufacturing at new and existing facilities that are area sources for hazardous air pollutant emissions. (Part 63, Subpart VVVVVV)

ITEM 4. Amend paragraph **23.1(4)“fd”** as follows:

fd. Emission standards for hazardous air pollutants for area sources: prepared feeds manufacturing. Rescinded IAB 9/19/12, effective 10/24/12. This standard applies to prepared feeds manufacturing that produces animal feed products (not including feed for cats or dogs) and uses chromium or manganese compounds at new and existing facilities that are area sources for hazardous air pollutant emissions. (Part 63, Subpart DDDDDDD)

[Filed 7/16/14, effective 9/10/14]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/6/14.

ARC 1566C

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 50, “Health Care Facilities Administration,” Iowa Administrative Code.

The amendments implement legislative changes made to Iowa Code section 135C.33 by 2014 Iowa Acts, House File 2365. The legislation provides employers and certified nurse aide training programs with additional time to verify the conviction or entry of a record of founded abuse of current employees. The change from 48 hours to seven calendar days resulted from recommendations of the Background Check Study Committee that met in 2013 pursuant to 2013 Iowa Acts, Senate File 347. The Committee recommended the change because the information necessary for employers or training programs to verify a conviction or founded abuse may take up to seven calendar days to be available on the system used by employers or training programs for verification.

Item 5 changes the requirement for submission of a plan of correction from ten working days to ten calendar days. A plan of correction is submitted by facilities to explain how the facility will correct a deficient practice identified by the Department during an inspection. The change to ten calendar days is consistent with federal requirements, thereby eliminating confusion for providers.

The Department does not believe that these amendments impose any financial hardship on any regulated entity, body, or individual.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 11, 2014, as **ARC 1502C**. No comments were received on the proposed amendments. The adopted rule making is identical to the one published under Notice of Intended Action.

The State Board of Health reviewed the proposed amendments at its May 14, 2014, meeting, and subsequently approved this rule making at its July 9, 2014, meeting.

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

These amendments are intended to implement Iowa Code sections 135C.14 and 135C.33 and 2014 Iowa Acts, House File 2365.

These amendments shall become effective September 10, 2014.

The following amendments are adopted.

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

ITEM 1. Amend paragraph **50.9(9)“a”** as follows:

a. The employer shall act to verify the information within ~~48 hours~~ seven calendar days of notification. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 2. Amend paragraph **50.9(10)“a”** as follows:

a. The facility shall act to verify credible information within ~~48 hours~~ seven calendar days of receipt. “Verify,” for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

ITEM 3. Amend subparagraph **50.9(12)“c”(1)** as follows:

(1) The program shall act to verify the information within ~~48 hours~~ seven calendar days of notification. “Verify,” for purposes of this paragraph, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents. If the information is verified, the program shall follow the requirements of paragraph 50.9(12)“a” to determine whether or not the student’s involvement in a clinical education component may continue.

ITEM 4. Amend paragraph **50.9(12)“d”** as follows:

d. *Program receipt of credible information that a student has been convicted of a crime or has a record of founded abuse.* If a program receives credible information, as determined by the program, that a student has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after the record checks and any evaluation have been performed, from a person other than the student, and the student has not informed the program of such information within 48 hours, the program shall act to verify the credible information within ~~48 hours~~ seven calendar days of receipt of the credible information. “Verify,” for purposes of this paragraph, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents. If the information is verified, the requirements of paragraph 50.9(12)“a” shall be applied to determine whether or not the student’s involvement in a clinical education component may continue.

ITEM 5. Amend subrule 50.10(7), introductory paragraph, as follows:

50.10(7) Plan of correction. Within ten ~~working~~ calendar days following receipt of the statement of deficiencies, the health care facility shall submit a plan of correction to the department.

[Filed 7/16/14, effective 9/10/14]

[Published 8/6/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/6/14.

ARC 1562C**NATURAL RESOURCE COMMISSION[571]****Adopted and Filed**

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

Chapter 106 sets regulations for deer hunting by residents and includes season dates, bag limits, possession limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation and reporting requirements.

The amendments eliminate the January antlerless-deer-only season, reduce antlerless-deer-only quotas in 72 counties by 10,000 from the number of licenses sold in 2013, and restrict hunters in 27 counties to taking only antlered deer during the early muzzleloader and first shotgun seasons. These amendments are designed to reduce the rate of decline in deer numbers in those counties whose deer populations have been reduced to levels that were agreed to in 2009 by the Deer Study Advisory Group (DSAG). The DSAG was created to review, analyze, and make recommendations on issues relating to the state's deer population.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 28, 2014, as **ARC 1475C**. A public hearing was held on June 17, 2014. Approximately 250 comments were received from the public during the comment period, and nearly two-thirds of those comments supported the proposed changes.

The following changes were made to the amendments published under Notice:

Throughout the amendments, proposed references to "regular deer" licenses and seasons were changed to "general deer" licenses and seasons.

In Item 1, in the last sentence of paragraph 106.1(1)"a," the phrase "for taking deer of either sex" has been added for clarification.

New Items 9 and 11 were added to the rule making in order to implement 2014 Iowa Acts, House File 499, which became effective on July 1, 2014. 2014 Iowa Acts, House File 499, requires the Department to make crossbows a legal weapon during the late muzzleloader season. Proposed Items 9 and 10 have been renumbered as Items 10 and 12.

These amendments will have a neutral impact on jobs in the state. Even though the Commission is reducing the number of available antlerless-deer-only licenses, there should not be a noticeable change in deer hunting. The new quotas are designed to reduce the rate of decline of the deer population. Thus, the private sector job impact should remain the same even with this rule making. The following types of jobs are positively impacted by deer hunting generally (and should see no noticeable change due to this rule making): hunting equipment retailers (weapons, ammunition, clothing, chairs, stands, binoculars, and other supporting equipment); field guides and outfitters; taxidermists; and restaurants, hotels, and gas stations for hunters traveling around the state.

These amendments are intended to implement Iowa Code sections 481A.38, 481A.39, 481A.48(1), 483A.8, 483A.8B, 483A.8C, 483A.24 and 483A.24B.

These amendments will become effective September 10, 2014.

The following amendments are adopted.

ITEM 1. Amend subrules 106.1(1) to 106.1(4) as follows:

106.1(1) Type of license.

a. ~~Any-deer~~ General deer licenses. ~~Any-deer~~ General deer licenses shall be valid for taking deer of either sex in one season selected at the time the license is purchased. General deer licenses shall be valid for taking deer of either sex except in Buena Vista, Calhoun, Cerro Gordo, Cherokee, Clay, Dickinson, Emmet, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Ida, Kossuth, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Webster, Winnebago, Worth and Wright counties during the early muzzleloader or first regular gun season when the general deer license will be valid for taking deer with at least one forked antler. ~~Paid any-deer~~ general deer licenses shall

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be valid statewide except where prohibited in deer population management zones established under 571—Chapter 105. Free ~~any-deer~~ general deer licenses shall be valid for taking deer of either sex only on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

b. Antlerless-deer-only licenses. Antlerless-deer-only licenses shall be valid for taking deer that have no forked antler. Paid antlerless-deer-only licenses shall be valid in one county or in one deer population management zone and in one season as selected at the time the license is purchased. Free and reduced-fee antlerless-deer-only licenses shall be valid on the farm unit of an eligible landowner or tenant in the season or seasons selected at the time the license is obtained.

106.1(2) Bow season licenses. ~~Any-deer~~ General deer and antlerless-deer-only licenses, paid or free, shall be valid in both segments of the bow season.

106.1(3) Regular gun season licenses. Paid ~~any-deer~~ general deer and antlerless-deer-only licenses shall be valid in either the first or the second regular gun season, as designated on the license. Free ~~any-deer~~ general deer licenses and antlerless-deer-only licenses shall be valid in both the first and second regular gun seasons.

106.1(4) Muzzleloader season licenses. ~~Any-deer~~ General deer and antlerless-deer-only licenses, paid or free, shall be valid in either the early or the late muzzleloader season, as designated on the license.

ITEM 2. Rescind and reserve subrule **106.1(6)**.

ITEM 3. Amend subrule 106.1(7) as follows:

106.1(7) Free and reduced-fee deer licenses for landowners and tenants. A maximum of one free ~~any-deer~~ general deer license, two free antlerless-deer-only licenses, and two reduced-fee antlerless-deer-only licenses may be issued to a qualifying landowner or eligible family member and a qualifying tenant or eligible family member. Eligibility for licenses is described in 571—106.12(481A). The free ~~any-deer~~ general deer license shall be available for one of the following seasons: the youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. One free antlerless-deer-only license shall be available for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, or first and second regular gun seasons. The second free antlerless-deer-only license shall be valid only for the January antlerless-deer-only season and will be available only if a portion of the farm unit lies within a county where paid antlerless-deer-only licenses are available during that season. Each reduced-fee antlerless-deer-only license shall be valid for one of the following seasons: youth/disabled hunter season (if eligible), bow season, early muzzleloader season, late muzzleloader season, first and second regular gun seasons, or January antlerless-deer-only season. January antlerless-deer-only licenses will be available only if a portion of the farm unit is located in a county where paid antlerless-deer-only licenses are available in that season.

ITEM 4. Rescind and reserve subrules **106.2(5)** and **106.4(5)**.

ITEM 5. Amend subrule 106.6(1) as follows:

106.6(1) Paid ~~any-deer~~ general deer licenses. Residents may purchase no more than two paid ~~any-deer~~ general deer licenses, one for the bow season and one for one of the following seasons: early muzzleloader season, late muzzleloader season, first regular gun season, or second regular gun season. No more than 7,500 paid statewide ~~any-deer~~ general deer licenses will be sold for the early muzzleloader season. Fifty additional paid early muzzleloader season licenses will be sold through and will be valid only for the Iowa Army Ammunition Plant. There will be no quota on the number of paid ~~any-deer~~ general deer licenses issued in the bow season, late muzzleloader season, first regular gun season, or second regular gun season.

ITEM 6. Amend paragraph **106.6(2)“b”** as follows:

b. No one may obtain paid licenses for both the first regular gun season and second regular gun season regardless of whether the licenses are valid for any deer or antlerless deer only. Paid antlerless-deer-only licenses for the early muzzleloader season may only be purchased by hunters who

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have already purchased one of the 7,500 paid statewide ~~any-deer~~ general deer licenses. Hunters who purchase one of the 7,500 paid statewide ~~any-deer~~ general deer licenses for the early muzzleloader season may not obtain paid antlerless licenses for the first or second regular gun season.

ITEM 7. Rescind and reserve subrule **106.6(4)**.

ITEM 8. Amend subrule 106.6(6) as follows:

106.6(6) Antlerless-deer-only licenses. Paid antlerless-deer-only licenses will be available by county for the ~~2013~~ 2014 deer season as follows:

County	Quota	County	Quota	County	Quota
Adair	2400 <u>1025</u>	Floyd	0	Monona	2500 <u>850</u>
Adams	1950 <u>1450</u>	Franklin	0	Monroe	3000 <u>1950</u>
Allamakee	4500 <u>2975</u>	Fremont	600 <u>525</u>	Montgomery	1050 <u>750</u>
Appanoose	3300 <u>2200</u>	Greene	150 <u>0</u>	Muscatine	1175 <u>775</u>
Audubon	100 <u>0</u>	Grundy	0	O'Brien	0
Benton	650 <u>325</u>	Guthrie	3300 <u>1950</u>	Osceola	0
Black Hawk	0	Hamilton	100 <u>0</u>	Page	950 <u>750</u>
Boone	650 <u>450</u>	Hancock	0	Palo Alto	0
Bremer	1000 <u>650</u>	Hardin	200 <u>0</u>	Plymouth	100 <u>0</u>
Buchanan	250 <u>200</u>	Harrison	2500 <u>850</u>	Pocahontas	0
Buena Vista	0	Henry	1025 <u>925</u>	Polk	1500 <u>1350</u>
Butler	0	Howard	350 <u>200</u>	Pottawattamie	1300 <u>850</u>
Calhoun	0	Humboldt	0	Poweshiek	500 <u>300</u>
Carroll	100 <u>0</u>	Ida	0	Ringgold	2600 <u>2200</u>
Cass	550 <u>400</u>	Iowa	775 <u>450</u>	Sac	0
Cedar	1025 <u>775</u>	Jackson	1250 <u>675</u>	Scott	500 <u>200</u>
Cerro Gordo	0	Jasper	1700 <u>775</u>	Shelby	400 <u>225</u>
Cherokee	0	Jefferson	2150 <u>1650</u>	Sioux	0
Chickasaw	450 <u>375</u>	Johnson	1400 <u>850</u>	Story	500 <u>150</u>
Clarke	2500 <u>2100</u>	Jones	975 <u>525</u>	Tama	500 <u>200</u>
Clay	0	Keokuk	1900 <u>450</u>	Taylor	2650 <u>2200</u>
Clayton	3200 <u>2775</u>	Kossuth	0	Union	2100 <u>1500</u>
Clinton	825 <u>400</u>	Lee	1400 <u>1275</u>	Van Buren	5400 <u>3800</u>
Crawford	300 <u>150</u>	Linn	1300 <u>850</u>	Wapello	2150 <u>1825</u>
Dallas	2700 <u>1875</u>	Louisa	850 <u>775</u>	Warren	4200 <u>2200</u>
Davis	3600 <u>2800</u>	Lucas	2800 <u>2200</u>	Washington	2250 <u>750</u>
Decatur	2800 <u>2200</u>	Lyon	0	Wayne	3000 <u>2200</u>
Delaware	975 <u>525</u>	Madison	4000 <u>2100</u>	Webster	100 <u>0</u>
Des Moines	900 <u>800</u>	Mahaska	1350 <u>475</u>	Winnebago	0
Dickinson	0	Marion	2250 <u>1650</u>	Winneshiek	3500 <u>1975</u>
Dubuque	1375 <u>725</u>	Marshall	500 <u>150</u>	Woodbury	2500 <u>850</u>
Emmet	0	Mills	950 <u>750</u>	Worth	0
Fayette	1650 <u>1500</u>	Mitchell	0	Wright	0

ITEM 9. Amend subrule 106.7(3) as follows:

106.7(3) Muzzleloader seasons. Only muzzleloading rifles and muzzleloading pistols will be permitted for taking deer during the early muzzleloader season. During the late muzzleloader season, deer may be taken with a muzzleloader, centerfire handgun, crossbow or bow as described in 106.7(1).

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Muzzleloading rifles are defined as flintlock or percussion cap lock muzzleloaded rifles and muskets of not less than .44 and not larger than .775 caliber, shooting single projectiles only. Centerfire handguns must be .357 caliber or larger shooting straight-walled cartridges propelling an expanding-type bullet (no full-metal jacket) and complying with all other requirements provided in Iowa Code section 481A.48. Legal handgun calibers are listed on the department of natural resources list of Acceptable Handgun Calibers for Hunting Deer in Iowa. Revolvers, pistols and black powder handguns must have a 4-inch minimum barrel length. There can be no shoulder stock or long-barrel modifications to handguns. Muzzleloading handguns must be .44 caliber or larger, shooting single projectiles only. Crossbow means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire a bolt, arrow, or quarrel by the release of the bow string, which is controlled by a mechanical trigger and a working safety. Crossbows equipped with pistol grips and designed to be fired with one hand are illegal for taking or attempting to take deer. All projectiles used in conjunction with a crossbow for deer hunting must be equipped with a broadhead with at least three blades.

ITEM 10. Rescind and reserve subrule **106.7(5)**.

ITEM 11. Amend subrule 106.7(6) as follows:

106.7(6) Prohibited weapons and devices. The use of dogs, domestic animals, bait, rifles other than muzzleloaded or as provided in 106.7(5), handguns except as provided in 106.7(3), crossbows except as provided in 106.7(1) and 106.7(3), automobiles, aircraft, or any mechanical conveyance or device, including electronic calls, is prohibited, except that paraplegics and single or double amputees of the legs may hunt from any stationary motor-driven land conveyance. "Bait" means grain, fruit, vegetables, nuts, hay, salt, mineral blocks, or any other natural food materials; commercial products containing natural food materials; or by-products of such materials transported to or placed in an area for the intent of attracting wildlife. Bait does not include food placed during normal agricultural activities. "Paraplegic" means an individual with paralysis of the lower half of the body with involvement of both legs, usually due to disease or injury to the spinal cord. It shall be unlawful for a person, while hunting deer, to carry or have in possession a rifle except as provided in 106.7(3) and 106.7(5). It shall be unlawful for a person hunting with a bow license to carry a handgun unless that person also has a valid deer hunting license and an unfilled transportation tag that permits a handgun to be used to take deer.

ITEM 12. Amend subrule 106.10(1) as follows:

106.10(1) Licenses.

a. Youth deer hunt. A youth deer license may be issued to any Iowa resident who is not over 15 years old on the day the youth obtains the license. The youth license may be paid or free to persons eligible for free licenses. If the youth obtains a free landowner/tenant license, it will count as the one free ~~any-deer~~ general deer license for which the youth's family is eligible.

Each participating youth must be accompanied by an adult who possesses a regular hunting license and has paid the habitat fee (if the adult is normally required to have a hunting license and to pay the habitat fee to hunt). Only one adult may participate for each youth hunter. The accompanying adult must not possess a firearm or bow and must be in the direct company of the youth at all times.

A person may obtain only one youth ~~any-deer~~ general deer license but may also obtain any other paid or free ~~any-deer~~ general deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner with which other hunters obtain them, as described in 106.6(2).

b. Severely disabled hunt. Any severely disabled Iowa resident meeting the requirements of Iowa Code section 321L.1(8) may be issued one ~~any-deer~~ general deer license to hunt deer during the youth season. A person applying for this license must either possess a disability parking permit or provide a completed form from the department of natural resources. The form must be signed by a physician verifying that the person's disability meets the criteria defined in Iowa Code section 321L.1(8). Forms are available online at ~~www.iowadnr.com~~ www.iowadnr.gov, by visiting the DNR ~~central office~~ offices at the Wallace State Office Building or any district office, or by calling (515)281-5918. A person between 16 and 65 years of age must also possess a regular hunting license and have paid the habitat fee to obtain a license (if normally required to have a hunting license and to pay the habitat fee to hunt). A severely

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disabled person obtaining this license may obtain any other paid and free ~~any-deer~~ general deer and antlerless-deer-only licenses that are available to other hunters. Antlerless-deer-only licenses must be obtained in the same manner by which other hunters obtain them, as described in 106.6(2).

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