



IOWA GENERAL ASSEMBLY

Administrative Rules Review Committee

THE RULES DIGEST

April 2012

Scheduled for Committee review
Monday March 9th, 2012
Room #116

Reference
XXXIV IAB No. 18(03/07/12)
XXXIV IAB No. 19(03/21/12)

HIGHLIGHTS IN THIS ISSUE:

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EDUCATIONAL EXAMINERS

8:25

Licensee discipline, 03/07/12 IAB, ARC 0025C, ADOPTED.

This provision sets out in great detail the acts which may subject a licensee to suspension, revocation, or other board action. The changes themselves simply implement the provisions of 2011 Iowa Acts, Senate File 120. That Act added new grounds for which the board of educational examiners is required to disqualify an applicant for a license or to revoke a license. The new grounds include enticing a minor; human trafficking; or any offense specified in the laws of another jurisdiction, any offense under prior laws of this state or another jurisdiction, or any offense, or prior offense, that may be or was prosecuted in federal, military, or foreign court, that is comparable to an offense listed as grounds for disqualification or revocation.

It should be noted that the existing rules contain language that the ARRC has found controversial: "The board shall deny an application for licensure if the applicant or licensee has been convicted, has pled guilty to, or has been found guilty of the following criminal offenses, regardless of whether the judgment of conviction or sentence was deferred."

The remainder of this rules provides a very detailed description of the offenses that can result in licensee discipline.

ENVIRONMENTAL PROTECTION COMMISSION

8:30

Compliance and enforcement procedures, 03/21/12 IAB, ARC 0051C, NOTICE.

This proposal sets out a variety of compliance and enforcement options the EPC may consider in responding to possible violations of environmental statutes, rules, permits, licenses, certifications, and plans. These rules detail the steps the Department may take short of formal administrative proceedings; they codify existing practices. Options include:

- An informal meeting to discuss corrective actions.
- A letter of inquiry (LOI) The LOI allows the regulated entity an opportunity to provide information that would be helpful for a determination of whether a violation has occurred.
- A letter of noncompliance (LNC). If a violation has taken place, the department may issue a letter of noncompliance (LNC). This letter is used to address less significant violations where no environmental harm or threat to human health or safety has occurred or is imminent, the regulated entity is not a repeat offender, the corrective action is not deemed an emergency, or the violation is considered insignificant.
- A notice of violation (NOV) will most often be used when environmental harm or a threat to human health or safety has occurred or is imminent, the regulated entity is a repeat offender, the corrective action is deemed an emergency, or the violation is considered significant.

These actions are discretionary with the Department, which may instead choose to commence an administrative action or refer the matter to the Attorney General.

ENVIRONMENTAL PROTECTION COMMISSION

8:30

Septic tanks and private water systems, 03/21/12 IAB, ARC 0046C, NOTICE.

This proposal amends existing rules relating to septic tanks and private systems. The rules in part implement 2011 Iowa Acts, Senate File 321, relating to the disposal of wastewater from small-scale farm food processing operations, such as cheese-making, honey, and winery operations. The rules limit the amount of wastewater that can be applied to farmland and limits the harvesting of crops that have been in contact with the

wastewater. The application rate cannot exceed 30,000 gallons per acre per year or 1,500 gallons per acre per day. Only 30,000 gallons of “septage” per acre of cropland per year may be applied.

These amendments also implement 2010 Iowa Acts, House File 2437; the Act provides certain exemptions to the requirement that systems be inspected when the property is transferred. Other changes include the system setback distance to wells.

The EPC has scheduled five hearings around the state.

HUMAN SERVICES DEPARTMENT

9:40

Child care centers, 03/07/12 IAB, ARC 0030C, ADOPTED.

This amendment conforms child care center licensing standards to legislation enacted in 2011 Iowa Acts, House File 649, section 92. The amendment changes an exemption to licensing to clarify that parents may be employed by a fitness center or nonprofit organization to teach or lead a social or recreational activity instead of merely participating in it. The parent still must be immediately available and accessible on the physical premises where the care is provided.

At the request of the Administrative Rules Review Committee, additional amendments proposed in the Notice of Intended Action for this rulemaking were not adopted by the Department. Those amendments required specific levels of physical activity for children who are in care for four hours or more each day, and limited the amount of time children may spend viewing television, DVDs, and videos and using computers. The Committee requested that those amendments not be adopted because they were unrelated to the underlying legislation.

HUMAN SERVICES DEPARTMENT

9:40

Family investment and food assistance programs—determination of self-employment income, 03/21/12 IAB, ARC 0048C, NOTICE.

These proposed amendments change the procedures for determining self-employment income for the Family Investment Program and for Food Assistance. The amendments will allow applicant and participant households with self-employment income the choice between receiving a standard deduction of 40 percent from their gross self-employment income or having their actual allowable self-employment expenses deducted from their gross self-employment income.

Those who select the new standard deduction for self-employment expenses will not incur additional costs which could arise from gathering and preparing documentation of the actual costs of producing the income. Also, the alignment of self-employment income policies across these assistance programs will result in a more efficient process for Department staff who determine eligibility and benefits.

TRANSPORTATION DEPARTMENT

No Rep

Commercial driver licensing, 03/07/12 IAB, ARC 0031C, ADOPTED.

These amendments implement changes to the Federal Motor Carrier Safety Regulations that, effective January 30, 2012, require all applicants for a commercial driver's license (CDL), whether the CDL is initial, transferred, renewed or upgraded, to self-certify to the type of driving they engage in and to give the Department a copy of the driver's current medical examiner's certificate if the driver has certified to non-excepted interstate driving. Current CDL holders are required to complete a self-certification, and to submit a current medical examiner's certificate if certifying to non-excepted interstate driving, before January 30, 2014. The Department will post to the Commercial Driver's License Information System a medical status of "certified" for all persons who certify to non-excepted interstate driving and provide a medical examiner's certificate.

Current CDL holders and drivers certifying to non-excepted interstate driving who fail to comply with the requirements of these rules will be subject to an immediate posting of their Commercial Driver's License Information System medical status as "not certified" and to a downgrade of their CDLs. The downgrade becomes effective 60 days after the expiration of the medical examiner's certificate or variance. A driver whose CDL privilege is removed may regain the privilege at any time by taking the action required to avoid the CDL downgrade, provided that the driver remains otherwise eligible for a CDL.

These amendments make additional conforming changes to definitions and federal citations as well.