



IOWA ADMINISTRATIVE BULLETIN

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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

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CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2011

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

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
1	Wednesday, June 22, 2011	July 13, 2011
2	Friday, July 8, 2011	July 27, 2011
3	Friday, July 22, 2011	August 10, 2011

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

*****Note change of filing deadline*****

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Animal welfare—applicability to commercial establishments with federal permits, 67.8 IAB 6/1/11 ARC 9525B	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	June 23, 2011 2 p.m.
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NATURAL RESOURCE COMMISSION[571]

Wildlife refuges, 52.1 IAB 6/1/11 ARC 9524B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Nonresident deer hunting, 94.7(6), 94.9 IAB 6/1/11 ARC 9542B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Jackrabbit season, 107.2 IAB 6/1/11 ARC 9543B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Furbearers—hunting and trapping, 108.4, 108.7 IAB 6/1/11 ARC 9544B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.
Groundhog season, 109.1 IAB 6/1/11 ARC 9545B	Auditorium, Second Floor Wallace State Office Bldg. Des Moines, Iowa	June 21, 2011 1 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Discipline for chiropractic physicians, 45.2(11) IAB 6/1/11 ARC 9551B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 8 to 8:30 a.m.
Physician assistants—renewal notices, 326.9(1) IAB 6/1/11 ARC 9549B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 8:30 to 9 a.m.
Delegated prescribing by physician assistants, 327.6(1)“d” IAB 6/1/11 ARC 9550B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 9:30 to 10 a.m.
Discipline for physician assistants, 329.2(11) IAB 6/1/11 ARC 9548B	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	June 23, 2011 8:30 to 9 a.m.

PUBLIC SAFETY DEPARTMENT[661]

Fire safety requirements—bleachers, grandstands, and folding and telescopic seating, 201.2(1) IAB 6/15/11 ARC 9561B	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 2, 2011 10 a.m.
State building code—bleachers, grandstands, and folding and telescopic seating, 301.3 IAB 6/15/11 ARC 9562B	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	August 2, 2011 10 a.m.
Electrician and electrical contractor licensing program; electrical inspection program, 500.2, 502.2, ch 505, 551.2 IAB 5/18/11 ARC 9515B	First Floor Public Conference Room Public Safety Headquarters Bldg. 215 E. 7th St. Des Moines, Iowa	June 30, 2011 10 a.m.

PUBLIC SAFETY DEPARTMENT[661] (cont'd)

Statewide interoperable communications system board, ch 600 IAB 5/18/11 ARC 9516B	City Council Chambers West Des Moines City Hall 4200 George Mills Civic Parkway West Des Moines, Iowa	June 29, 2011 10:30 a.m.
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REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Registration fees; federal registry fee, 12.1, 12.3 IAB 6/15/11 ARC 9558B	Professional Licensing Conference Room Second Floor 1920 SE Hulsizer Rd. Ankeny, Iowa	July 5, 2011 9 a.m.
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UTILITIES DIVISION[199]

Capital infrastructure investment automatic adjustment mechanism for rate-regulated natural gas utilities, 19.18 IAB 6/1/11 ARC 9529B	Utilities Board Hearing Room 1375 E. Court Ave. Des Moines, Iowa	July 8, 2011 9 a.m.
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The following list will be updated as changes occur.

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

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

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

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CIVIL REPARATIONS TRUST FUND

Pursuant to Iowa Administrative Code 361—subrule 12.2(1), the Executive Council gives Notice that the Civil Reparations Trust Fund balance as of May 16, 2011, is approximately \$112,779.13. Money in the Civil Reparations Trust Fund is available for use for indigent civil litigation programs or insurance assistance programs. Application forms are available in the office of the State Treasurer by contacting GeorgAnna Madsen, Executive Secretary, State Capitol Room 114, Des Moines, Iowa 50319; telephone (515)281-5368. Applications must be filed on the thirtieth day after the date of publication of this Notice in the Iowa Administrative Bulletin, or on the thirtieth day after the date affixed to the Notice sent by first-class mail, whichever is later. Any person/company that would like to receive future notices should make request in writing to the above-mentioned contact. Rules regarding the Civil Reparations Trust Fund can be found at 361 IAC Chapter 12.

ARC 9563B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

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

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

Pursuant to the authority of Iowa Code section 238.16, the Department of Human Services proposes to amend Chapter 108, “Licensing and Regulation of Child-Placing Agencies,” Iowa Administrative Code.

The proposed amendments strengthen the licensing requirements for child-placing agencies in the area of supervised apartment living placement services. The changes include:

- Requiring a description of education and community activity options available to be included in the agency program statement that is given to all children in supervised apartment placement.
- Requiring the agency to document its findings that the proposed living situation is safe; is accessible to the child’s school, work, and activities; and is reasonably priced and that the agency program will meet the child’s needs.
- Removing the requirement that the child’s combination of school and work must be equivalent to a full-time commitment, given the scarcity of jobs for persons of this age and skill level.
- Requiring the agency to involve the child’s family in the development of the child’s service plan and specifying the elements that the service plan must include.
- Requiring that agency staff be present in a cluster-site arrangement at any time when a child is in the living unit and be available to the children in placement 24 hours per day, seven days per week.
- Requiring agency staff to document their personal observation that the living situation allows for the child’s social and emotional needs to be met, has a telephone and a working smoke detector, and presents no reasonable cause for believing that the child’s mode of living presents unacceptable risks to the child’s health or safety.

These changes were identified in the program review conducted to prepare the Department’s Request for Proposals ACFS-11-115 for purchase of services to children in supervised apartment living foster care. The Department finds that these changes offer basic protections that should be available to all children in a supervised apartment placement operated by a child-placing agency.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

Any interested person may make written comments on the proposed amendments on or before July 5, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of

HUMAN SERVICES DEPARTMENT[441](cont'd)

Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

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

These amendments are intended to implement Iowa Code chapter 238.

The following amendments are proposed.

Amend rule 441—108.10(238) as follows:

441—108.10(238) Supervised apartment living placement services. An agency seeking to obtain a child-placing license which authorizes the agency to place or supervise children in supervised apartment living placements shall meet the standards in rules 441—108.2(238) to 441—108.6(238).

108.10(1) Program statement. An agency authorized to place or supervise children in supervised apartment living placements shall have a current written program statement which ~~includes~~ shall be provided to all children placed in supervised apartment living. The statement shall include all of the following:

a. to f. No change.

g. A description of the education and community activity options that are available.

~~This program statement shall be provided to all children placed in supervised apartment living.~~

108.10(2) Basis for placement. Before placing a child in supervised apartment living, an agency shall document all of the following:

a. to d. No change.

e. ~~The child shall will be involved in school or other an educational or vocational program, work, or a combination thereof on a full-time basis,~~ as indicated in the child's individual care service plan.

f. ~~The child has entered into a mutually agreed-upon written contract with the agency which specifies the responsibilities of the agency and the child. This contract shall be reviewed with the child quarterly.~~

g. ~~If~~ The agency has been determined, through a visit to the living arrangement, that the following minimum standards for approval have been met:

(1) The living arrangement provides reasonably convenient access to schools, places of employment, and services required by the child.

(2) The living arrangement is in compliance with the applicable state and local zoning, fire, sanitary, and safety regulations.

(3) The living arrangement is reasonably priced to fit within the child's budget.

h. The agency has determined, based on the criteria in this subrule, that the agency's program can meet the needs of the child.

108.10(3) Services provided. The following services are required:

a. Ongoing assessment that identifies the child's strengths and needs as these pertain to the child's ability to live independently.

b. ~~The development~~ Development of an individual service plan by the agency worker within 30 days of the child's placement. The service plan shall be developed in consultation with the child, the child's family (unless a reason for noninvolvement is documented in the case record), and referring agent worker and shall be signed by all involved. The individual service plan shall include projection of the expected length of stay in supervised apartment living and shall address the activities necessary to achieve independence and the services needed to be provided to the child. The individual service plan shall be reviewed and updated quarterly or more often as necessary and shall be signed by all involved. The plan shall document the following:

(1) The goals that are intended to meet the specific needs of the child and the projected dates of accomplishment.

(2) The objectives (action steps) to be taken by the child and the agency and the projected dates of accomplishment to meet the child's goals.

(3) The services and activities necessary to achieve the child's goals and facilitate objectives (action steps), the frequency of services or activities, and the persons responsible.

HUMAN SERVICES DEPARTMENT[441](cont'd)

(4) A budget, developed with the child, based upon the child's monthly maintenance payment, any start-up allowance, and any earned or unearned income or assistance (such as food assistance). The agency worker shall work with the child to ensure that needed items are purchased and that bills are paid.

(5) In the quarterly update, the child's progress toward the goals and objectives and the child's compliance with the service plan.

c. Supervision to assist the ~~youth~~ child in developing the needed structure to live in this setting and in locating and using other needed services. Supervision ~~may~~ shall include guidance, oversight, and behavior monitoring.

(1) If the ~~youth~~ child is under age 18, supervision shall include a minimum of weekly face-to-face contacts.

(2) For ~~youth~~ children aged 18 or older, supervision shall include ~~a minimum of biweekly face-to-face contacts~~ contact at least every other week.

(3) Agency staff shall be present on site in a cluster setting at any time when more than one child is present in the living arrangement and shall be available to the children 24 hours a day, seven days a week.

(4) The agency shall provide a means for children in a scattered site setting to contact agency personnel 24 hours a day, seven days a week.

(5) The agency shall ensure that each child has access to and is receiving necessary medical care.

d. ~~Personal Documented~~ observation by the agency worker that the living situation provides safe and suitable social, emotional, and physical care.:

(1) The living situation is an environment that allows for the child's social and emotional needs to be met;

(2) There is an operating smoke alarm on each level of occupancy;

(3) The child has access to a telephone; and

(4) There is no reasonable cause for believing that the child's mode of living presents any unacceptable risks to the child's health or safety.

~~*e.* Maintenance of a means by which the youth can contact agency personnel 24 hours a day, seven days a week.~~

108.10(4) Record. ~~An~~ In addition to any other documentation requirements, an agency shall maintain a record for each child in a supervised apartment living placement. The record shall contain all of the following:

a. and *b.* No change.

c. Name, address, and ~~phone~~ telephone number of guardian, if applicable, and referring ~~agent~~ worker.

d. to *g.* No change.

108.10(5) No change.

ARC 9554B

PHARMACY BOARD[657]

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 147.76 and 272C.3, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” Iowa Administrative Code. The amendments were approved at the April 26, 2011, regular meeting of the Board of Pharmacy.

PHARMACY BOARD[657](cont'd)

The proposed amendments require that a pharmacist complete no less than two continuing education units (CEUs) in activities dealing with patient or medication safety and that a pharmacist complete no less than two CEUs in activities dealing with pharmacy law. The pharmacy law credits shall be obtained through Accreditation Council for Pharmacy Education (ACPE)-accredited provider activities; the patient or medication safety credits may be obtained through ACPE-accredited provider activities or through non-ACPE provider activities if those activities are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the activity content directly relates to the pharmacist's professional practice. The rules continue to require that a pharmacist complete at least 50 percent of the total required continuing education credits, or 1.5 CEUs, in ACPE-accredited provider activities dealing with drug therapy.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 15, 2011. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

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

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

The following amendments are proposed.

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

2.12(1) Continuing education activity attendance. Continuing education activities that carry the seal of an Accreditation Council for Pharmacy Education (ACPE)-accredited provider will automatically qualify for continuing education credit. Attendance is mandated in order for a pharmacist to receive credit unless the activity is an ACPE-accredited correspondence course.

a. Non-ACPE provider activity. A maximum of ~~50 percent~~ 1.3 CEUs (13 contact hours) of the total 3.0 CEUs of continuing education credits required pursuant to subrule 2.12(4) may be obtained through completion of non-ACPE provider activities if such activities are provided by an accredited health-professional continuing education provider, such as a continuing medical education (CME) provider, and if the activity content directly relates to the pharmacist's professional practice. The pharmacist is responsible for ensuring that the activity content directly relates to the pharmacist's professional practice. In addition, if one or more non-ACPE provider activities are intended to fulfill the requirement in paragraph 2.12(4) "c," the pharmacist is responsible for ensuring the activity content relates to patient or medication safety.

b. Exemption for health-related graduate studies. A pharmacist who is continuing formal education in health-related graduate programs, including participation in a pharmacy residency program, may be exempted from meeting the continuing education requirements during the period of such enrollment or participation. An applicant for this exemption shall petition the board, as soon as possible following enrollment in the qualifying graduate program or commencement of the pharmacy residency program and prior to completion of the qualifying program, on forms provided by the board office. At the discretion of the board, exemption during part-time or short-term enrollment in a health-related graduate program may be prorated for the actual period of such enrollment.

ITEM 2. Amend subrule 2.12(4) as follows:

2.12(4) Continuing education activity topics. Each pharmacist is required to obtain continuing education by completing activities in the topics specified in this subrule.

a. Drug therapy. A minimum of ~~50 percent~~ 1.5 CEUs (15 contact hours) of the pharmacist's required 3.0 CEUs shall be in ACPE-accredited courses activities dealing with drug therapy. Activities qualifying for the drug therapy requirement will include the ACPE topic designator "01" or "02" in the last two digits of the universal activity number.

b. Pharmacy law. A minimum of 0.2 CEUs (2 contact hours) of the pharmacist's required 3.0 CEUs shall be in ACPE-accredited activities dealing with pharmacy law. Activities qualifying for the

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pharmacy law requirement will include the ACPE topic designator "03" in the last two digits of the universal activity number.

c. *Patient or medication safety.* A minimum of 0.2 CEUs (2 contact hours) of the pharmacist's required 3.0 CEUs shall be in activities dealing with patient or medication safety. Activities completed to fulfill this requirement may be ACPE-accredited activities, in which case the last two digits of the universal activity number will include the ACPE topic designator "05," or non-ACPE provider activities as provided in subrule 2.12(1).

ARC 9557B**PHARMACY BOARD[657]****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 147.76 and 155A.6A, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 3, "Pharmacy Technicians," and to adopt new Chapter 40, "Tech-Check-Tech Programs," Iowa Administrative Code.

The amendments were approved at the April 26, 2011, regular meeting of the Board of Pharmacy.

The proposed amendments authorize the establishment of a tech-check-tech program in a hospital pharmacy or in a general pharmacy providing pharmaceutical services to patients in a residential care facility. The rules define terms utilized within the chapter and establish the requirements for an Iowa pharmacy that proposes to establish a tech-check-tech program. A plan for implementation of a tech-check-tech program shall be submitted to the Board for approval at least 90 days prior to the anticipated implementation of the program, and the plan shall not be implemented before the pharmacist in charge has received notification that the Board has approved the plan. The rules require that any pharmacy technician authorized by the pharmacist in charge to participate in an approved tech-check-tech program be registered with the Board and maintain national certification as a pharmacy technician. Requirements for pharmacy technician training, supervision of participating pharmacy technicians, program and participant evaluations, and record keeping are identified.

Amendments to Chapter 3 establish exceptions to the requirement for the final verification by a pharmacist of the validity of a prescription dispensed by a certified pharmacy technician when the certified pharmacy technician is participating in an approved tech-check-tech program pursuant to Chapter 40.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 15, 2011. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code sections 147.107, 155A.6A, and 155A.33. The following amendments are proposed.

ITEM 1. Amend subrule 3.21(1) as follows:

3.21(1) *Technical dispensing functions.* A pharmacist may delegate technical dispensing functions to an appropriately trained and registered pharmacy technician, but only if the pharmacist is on site and available to supervise the pharmacy technician when delegated functions are performed, except as provided in 657—subrule 6.7(2) or 657—subrule 7.6(2), as appropriate, or as provided for telepharmacy

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in 657—Chapter 9. ~~The~~ Except as provided for an approved tech-check-tech program pursuant to 657—Chapter 40, the pharmacist shall provide and document the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription or medication order prior to the delivery of the medication to the patient or the patient's representative. A pharmacy technician shall not delegate technical functions to a pharmacy support person.

ITEM 2. Amend rule 657—3.23(155A) as follows:

657—3.23(155A) Tasks a pharmacy technician shall not perform. A pharmacy technician shall not be authorized to perform any of the following judgmental tasks:

1. Provide Except for a certified pharmacy technician participating in an approved tech-check-tech program pursuant to 657—Chapter 40, provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order;

2. to 6. No change.

ITEM 3. Adopt the following new 657—Chapter 40:

CHAPTER 40
TECH-CHECK-TECH PROGRAMS

657—40.1(155A) Purpose and scope. The board may authorize a hospital pharmacy to participate in a tech-check-tech program. The board may authorize a general pharmacy providing pharmaceutical services to patients in a residential care facility as defined herein to participate in a tech-check-tech (TCT) program. The purpose of the tech-check-tech program is to authorize certified pharmacy technicians to review the work of other certified pharmacy technicians in connection with the filling of floor stock, including automated medication distribution systems (AMDS) and unit dose dispensing systems for institutionalized patients whose orders have previously been reviewed and approved by a licensed pharmacist, for the purpose of redirecting and optimizing pharmacist patient care services.

657—40.2(155A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Automated medication distribution system” or “AMDS” includes, but is not limited to, an automated device or series of devices operated by an electronic interface with one or more computers that is used to prepare, package, or dispense specified dosage units of drugs for administration or dispensing to a patient or the ultimate user. “AMDS” includes a device that prepares and packages a drug for unit dose dispensing, that prepares and packages a drug into outpatient prescription vials, and that dispenses prepackaged drugs.

“Board” means the board of pharmacy.

“Certified medication aide” means an individual who has successfully completed a medication aide course approved by the Iowa department of inspections and appeals or who has passed a medication aide challenge examination approved by the Iowa department of inspections and appeals and administered by an area community college. A “certified medication aide” is not a “licensed health care professional” as that term is used herein.

“Certified pharmacy technician” means an individual who holds a valid current national certification and who has registered with the board as a certified pharmacy technician pursuant to 657—Chapter 3.

“Checking technician” means a certified pharmacy technician who has been authorized by the pharmacist in charge to participate in a TCT program by checking the work of other certified pharmacy technicians.

“Component” means any single physical or electronic storage or access device that, in combination with other devices, makes up an AMDS.

“Drug bin” means a compartment in an AMDS component that is designed to contain one specific drug.

“Floor stock” means a supply of drugs consisting of emergency drugs and controlled substances that are routinely maintained on patient care units and accessible by nursing staff for patient administration.

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“*Hospital pharmacy*” means a pharmacy licensed by the board pursuant to 657—Chapter 7 and located within a facility which is primarily engaged in providing, by or under the supervision of physicians, concentrated medical and nursing care on a 24-hour basis to inpatients and which maintains and operates organized facilities for the diagnosis, care, and treatment of human illnesses.

“*Long-term care facility*” means a nursing home, retirement care, mental care, or other facility or institution which provides extended health care to resident patients and which is registered by the board for controlled substances under Iowa Code chapter 124.

“*Medication order*” means a written or electronic order from a practitioner or an oral order from a practitioner or the practitioner’s authorized agent for administration of a drug or device and, for purposes of this chapter, includes a prescription drug order.

“*TCT program*” means a board-approved tech-check-tech program implemented and formally established pursuant to these rules by the pharmacist in charge who has determined that one or more certified pharmacy technicians are qualified to safely check the work of other certified pharmacy technicians and thereby provide final verification of drugs which are dispensed for subsequent administration to patients in an institutional setting.

“*Unit dose dispensing system*” means a drug distribution system utilizing single unit, unit dose, or unit of issue packaging in a manner that helps reduce or remove traditional drug stocks from patient care areas, enables the selection and distribution of drugs to be pharmacy-based and controlled, and improves accountability and accuracy.

657—40.3(155A) General requirements. To participate in a TCT program, a hospital pharmacy shall be located in Iowa and provide pharmaceutical services to patients receiving treatment in a hospital located in Iowa; a general pharmacy shall be located in Iowa and provide pharmaceutical services to patients in a long-term care facility located in Iowa.

40.3(1) Site-specific. A TCT program shall be specific to the site at which implementation of the program is proposed and shall include a site-specific training program tailored to the patient population and the drug distribution system utilized.

40.3(2) Plan approval. At least 90 days prior to anticipated implementation of a TCT program, the pharmacist in charge shall submit the program plan, consistent with the requirements of these rules, for board approval. A pharmacy shall not implement a TCT program prior to receipt of notification that the board has approved the submitted TCT program plan.

40.3(3) Technician utilization plan. The pharmacy technician utilization plan shall specifically identify the individual certified pharmacy technicians authorized to participate in the TCT program and shall identify in detail the types of work that the certified pharmacy technicians may perform and check. The pharmacy shall include participation in the TCT program in the defined duties of any certified pharmacy technician authorized to participate in the TCT program, and if the certified pharmacy technician is authorized to check the work of other certified pharmacy technicians, that function shall be clearly identified in the checking technician’s duties.

40.3(4) Certified pharmacy technician participation. All of the following shall apply to a certified pharmacy technician authorized to participate in a TCT program.

a. National certification. The certified pharmacy technician’s national certification shall be current and in good standing.

b. Iowa registration. The certified pharmacy technician’s registration with the board shall be current, in good standing, and not currently subject to disciplinary charges or sanctions.

c. Prior experience. The checking technician shall be working at the pharmacy full- or part-time and shall have met the experience requirement for a checking technician as specified in policies and procedures and in the TCT program plan.

d. Training. The certified pharmacy technician shall complete site-specific training in the TCT program and the functions to be performed by the certified pharmacy technician as part of the TCT program.

e. Specialized training for checking technician. A certified pharmacy technician who is a checking technician shall receive specialized and advanced training as provided in policies and

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procedures, including training in the prevention, identification, and classification of medication errors. The training program for a checking technician shall be didactic in nature and shall include successful completion of a competency test.

40.3(5) *Responsible individual.* The pharmacist in charge may designate one pharmacist to be responsible for meeting TCT program training and validation requirements and may designate one or more pharmacists to supervise the activities of certified pharmacy technicians authorized to participate in the TCT program. A pharmacist supervising TCT program activities shall provide program plan evaluation information to the responsible pharmacist or the pharmacist in charge for collection and analysis. The pharmacist in charge shall be ultimately responsible for TCT program activities.

40.3(6) *Policies and procedures.* Parameters for supervising the activities of certified pharmacy technicians participating in the TCT program, including but not limited to specialized and advanced training for checking technicians, shall be specified in policies and procedures regarding the utilization of pharmacy technicians. Policies and procedures shall provide for continuous evaluation of certified pharmacy technicians authorized to participate in the TCT program, shall identify benchmarks and sentinel events, shall define an excessive overall error rate, and shall address certified pharmacy technician retraining procedures.

40.3(7) *Staffing.* Pharmacy staffing shall be adequate to ensure consistent and safe implementation of the TCT program and to optimize pharmacist patient care services.

40.3(8) *Pharmacist review.* Except in an emergency, when the pharmacy is closed, or when the prescriber is directly supervising and overseeing the administration of the drug to the patient, a pharmacist shall review all orders against a medication profile as required by rule 657—8.21(155A). A pharmacist shall be on site and available to certified pharmacy technicians during any period that TCT functions are being performed.

40.3(9) *Additional drug check prior to administration.* The drug distribution system shall be structured so that at least one additional check of dispensed drugs, following dispensing and checking by a checking technician, is completed by a licensed health care professional in the facility prior to administration of the drug to the patient. A licensed health care professional or certified medication aide shall administer the drug to the patient. The TCT program plan shall identify the individuals authorized to administer the drug to the patient. The identification of these individuals may consist of a description of the classification of the authorized individuals, such as “registered nurse,” “licensed practical nurse,” or “certified medication aide,” or the identification may specifically identify the authorized individuals by name and title. Alternatively, the identification may reference an existing facility policy or procedure that identifies or specifies the individuals authorized to administer a drug to a patient.

40.3(10) *Program evaluation.* Implementation of a TCT program shall result in the redirection of the pharmacist from distributive tasks to cognitive and patient care activities. As part of an ongoing program review and evaluation as provided in subrule 40.4(5), the pharmacist in charge or designee shall document the specific cognitive and patient care activities, and a summary of the approximate amount of time pharmacists spend on those activities, as a result of implementation of the TCT program. Program review and evaluation records shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years following the date of the record.

657—40.4(155A) TCT program requirements. A TCT program shall be conducted in compliance with the following requirements.

40.4(1) *Training of checking technician.* No certified pharmacy technician shall be designated or authorized by the pharmacist in charge or responsible pharmacist to perform, nor shall a certified pharmacy technician perform, the function of checking the work of another certified pharmacy technician without having received and satisfactorily completed the specialized and advanced training provided for in the pharmacy’s policies and procedures. The specialized training shall include the prevention, identification, and classification of medication errors. Training requirements shall include provisions for retraining of a checking technician who fails to maintain the level of competence necessary for the performance of authorized duties as demonstrated by the technician’s failure to satisfactorily meet ongoing evaluation and competency audits.

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40.4(2) Authorized checking functions. A certified pharmacy technician authorized by the pharmacist in charge or responsible pharmacist to check the work of another certified pharmacy technician may check activities relating to the filling of floor stock, unit dose distribution systems, proprietary bag and vial systems or manufactured premix intravenous products, and AMDS components for hospital and long-term care facility patients. Medication orders shall have previously been reviewed by a licensed pharmacist against the patient's medication profile, and the prepared drugs shall be checked by at least one additional licensed health care professional in the facility at the time the drugs are administered to a patient. The checking function performed by the checking technician shall be limited to those types of drugs identified in the written TCT program plan, and the TCT program plan shall specifically describe the method for verifying cassette or drug bin fills.

40.4(3) Certified pharmacy technician evaluation. The responsible pharmacist shall conduct continuous monitoring and evaluation of each certified pharmacy technician authorized to participate in the TCT program in order to ensure the continued competency of the certified pharmacy technicians and the safety of patients. As a component of the pharmacy's continuous quality improvement program and except as otherwise specifically provided by these rules, errors shall be identified and records maintained as provided in rule 657—8.26(155A).

a. Periodic review and pharmacist check. Evaluation shall include periodic review and checking by the pharmacist of work checked by the checking technician and identification and documentation of all errors not identified and corrected by the checking technician.

b. Review of errors identified by pharmacist or checking technician. The responsible pharmacist shall review with all certified pharmacy technicians involved any errors identified during the evaluation and shall discuss procedures to ensure the errors are not repeated.

c. Review of errors identified following release by checking technician. The responsible pharmacist shall receive, evaluate, and review with all certified pharmacy technicians involved any errors identified by a health care professional, a certified medication aide, a patient, or any other individual following release of a drug by the checking technician.

40.4(4) Records. The pharmacist in charge shall maintain in the pharmacy department a record for each certified pharmacy technician authorized by the pharmacist in charge or responsible pharmacist to participate in the TCT program. The record shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years beyond the term of the certified pharmacy technician's employment. The record shall include:

a. The name of the certified pharmacy technician.

b. The date on which the certified pharmacy technician completed the site-specific training for participation in the TCT program.

c. The date on which the certified pharmacy technician was authorized to participate in the TCT program and the specific TCT program functions and tasks the certified pharmacy technician is authorized to perform.

d. If the certified pharmacy technician is authorized to check the work of other certified pharmacy technicians, the date on which the checking technician completed the specialized and advanced training as provided in policies and procedures.

e. The dates and results of all competency evaluations.

f. The dates of and reasons for any suspension or revocation of the certified pharmacy technician's TCT program authorization, identification of corrective action or retraining completed, and the date of the subsequent reinstatement of the certified pharmacy technician's TCT program authorization.

g. The dates of and reasons for any disciplinary action taken against the certified pharmacy technician in connection with the certified pharmacy technician's performance of duties relating to the TCT program.

40.4(5) TCT program evaluation. The pharmacist in charge shall maintain in the pharmacy department program evaluation records that demonstrate the redirection of pharmacist activities from distributive tasks to cognitive and patient care activities. The approximate amount of time each pharmacist spent on specific distributive tasks and on specific cognitive and patient care activities prior to implementation of the TCT program shall be documented in the program evaluation records and

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shall be maintained for the duration of the TCT program. Program evaluation records shall identify the specific cognitive and patient care activities and a summary of the approximate amount of time pharmacists spend on those activities as a result of implementation of the TCT program. TCT program evaluation records shall be updated at least semiannually and shall be available for inspection and copying by the board or its representatives and any other authorized agencies for two years following the date of the record.

These rules are intended to implement Iowa Code sections 147.107, 155A.6A, and 155A.33.

ARC 9555B**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 4, “Pharmacist-Interns,” Iowa Administrative Code.

The amendments were approved at the April 26, 2011, regular meeting of the Board of Pharmacy.

The proposed amendments add a new subrule that identifies the information required to be provided in or with the application for registration as a pharmacist-intern, renumbers subsequent subrules, and corrects a reference in the definition of “nontraditional internship booklet” to a renumbered subrule.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 15, 2011. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code section 155A.6.

The following amendments are proposed.

ITEM 1. Amend rule **657—4.1(155A)**, definition of “Nontraditional internship booklet,” as follows:

“*Nontraditional internship booklet*” means that internship booklet comprised of competencies and affidavits relating exclusively to that nontraditional internship segment and approved by the board for the individual pharmacist-intern pursuant to subrule ~~4.6(5)~~ 4.6(6).

ITEM 2. Renumber subrules **4.6(1)** to **4.6(5)** as **4.6(2)** to **4.6(6)**.

ITEM 3. Adopt the following **new** subrule 4.6(1):

4.6(1) Application for registration—required information. Application for registration as a pharmacist-intern shall be on forms provided by the board, and all requested information shall be provided on or with such application. The application shall require that the applicant provide, at a minimum, the following: name; address; telephone number; date of birth; social security number; and name and location of college of pharmacy and anticipated month and year of graduation. The college of pharmacy shall certify the applicant’s eligibility to practice as a pharmacist-intern.

ARC 9556B**PHARMACY BOARD[657]****Notice of Intended Action**

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

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

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy hereby gives Notice of Intended Action to amend Chapter 5, “Pharmacy Support Persons,” Iowa Administrative Code.

The amendments were approved at the April 26, 2011, regular meeting of the Board of Pharmacy.

The proposed amendments clarify the authority of a pharmacy support person, under the supervision of a pharmacist, to place a prescription container that has been verified by a pharmacist into a bag or sack for delivery to the patient as part of the sales transaction.

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

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on July 15, 2011. Such written materials may be sent to Terry Witkowski, Executive Officer, Board of Pharmacy, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to terry.witkowski@iowa.gov.

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

These amendments are intended to implement Iowa Code section 155A.6B.

The following amendments are proposed.

ITEM 1. Amend rule 657—5.17(155A) as follows:

657—5.17(155A) Tasks a pharmacy support person shall not perform. A pharmacy support person shall not perform any of the following judgmental or technical functions. Performance of any of these tasks by a pharmacy support person shall constitute the practice of pharmacy without a license in violation of Iowa Code section 155A.7. A pharmacy support person shall not:

1. to 6. No change.

7. Package, pour, or place in a container for dispensing, sale, distribution, transfer, vending, or barter any drug which, under federal or state laws, may be sold or dispensed only pursuant to the prescription of a practitioner authorized to prescribe drugs. This prohibited task includes the addition of water or other liquid for reconstitution of oral antibiotic liquids. A pharmacy support person may place a prescription container into a bag or sack for delivery to the patient as part of the sales transaction after the accuracy of the prescription has been verified by the pharmacist.

8. to 15. No change.

ITEM 2. Amend rule 657—5.18(155A) as follows:

657—5.18(155A) Nontechnical pharmacy support tasks. An appropriately trained and registered pharmacy support person may perform any of the following nontechnical functions that have been delegated to the pharmacy support person by the supervising pharmacist:

1. Perform the duties of a pharmacy clerk. The duties of a pharmacy clerk may include placing a prescription container into a bag or sack for delivery to the patient as part of the sales transaction after the accuracy of the prescription has been verified by the pharmacist.

2. to 9. No change.

ARC 9561B**PUBLIC SAFETY DEPARTMENT[661]****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 100.1 and 100.35, the State Fire Marshal hereby gives Notice of Intended Action to amend Chapter 201, “General Fire Safety Requirements,” Iowa Administrative Code.

Iowa Code sections 100.1 and 100.35 authorize the State Fire Marshal to adopt requirements for fire safety in a variety of occupancies including schools, college buildings and “buildings or structures in which persons congregate from time to time.” Included in the State Fire Marshal’s rules are requirements for bleachers, telescopic and folding seating, and grandstands. Language included in a nationally recognized standard for these types of seating, which is adopted by reference within the rules of the State Fire Marshal, requires annual inspections. The same standard has also been adopted by reference within the State of Iowa Building Code by the Building Code Commissioner.

Several inquiries have been received recently regarding the qualifications of the persons who perform the required inspections. This issue was addressed by a formal interpretation of the requirement issued jointly by the State Fire Marshal and the Building Code Commissioner in May 2011. The amendment proposed herein would incorporate the explanatory language used in the interpretation directly into the rule. This language should aid in reducing confusion about who may perform the required inspections. The language proposed herein clarifies that any person, including the owner or an employee of the owner of the structure being inspected, may perform a required inspection, provided that the person performing the inspection is knowledgeable about the requirements for the structure.

Any person may submit comments in writing by mail to the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; or by electronic mail to admrule@dps.state.ia.us. All comments must be received no later than 4:30 p.m. on August 1, 2011, or may be submitted at the public hearing.

A public hearing on this proposed amendment will be held on August 2, 2011, at 10 a.m. in the First Floor Public Conference Room, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa. Any person who wishes to comment on the proposed amendment is welcome to participate in the public hearing. The public hearing will be held jointly with the Building Code Commissioner, who is proposing an amendment to the State of Iowa Building Code identical to this proposed amendment. The amendment to the rule of the State of Iowa Building Code is published herein as **ARC 9562B**.

Rules of the State Fire Marshal are generally subject to waiver pursuant to rule 661—200.2(100).

No fiscal impact is anticipated from the adoption of this amendment.

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

This amendment is intended to implement Iowa Code section 100.35.

The following amendment is proposed.

Amend subrule 201.2(1) as follows:

201.2(1) International Fire Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, with the following amendments:

Delete section 103 and sections contained therein, section 104 and sections contained therein, section 105 and sections contained therein, section 106 and sections contained therein, section 107 and sections contained therein, section 108 and sections contained therein, section 109 and sections contained therein,

PUBLIC SAFETY DEPARTMENT[661](cont'd)

section 110 and sections contained therein, section 111 and sections contained therein, section 112, and section 113 and sections contained therein.

Delete section 301.2.

Delete section 307.2.

Delete section 307.3 and insert in lieu thereof the following new section:

307.3 Extinguishment Authority. The state fire marshal or an employee of the fire marshal division authorized to do so by the fire marshal, or local fire chief or member of the local fire department authorized to do so by the fire chief, is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.

Delete section 308.1.4 and insert in lieu thereof the following new section:

308.1.4 Open Flame Cooking Devices. Charcoal burners and ash- or coal-producing devices shall not be operated on combustible balconies or within 10 feet of combustible construction.

Exceptions:

1. One- and two-family dwellings.
2. LP-gas burners connected to one (1) 20-pound LP-gas container.
3. Where buildings, balconies and decks are protected by an automatic sprinkler system.

Delete section 315.2.3 and insert in lieu thereof the following new section:

315.2.3 Equipment Rooms. Combustible material shall not be stored in boiler rooms, mechanical rooms, or electrical equipment rooms.

Exception: In sprinklered equipment rooms that have sufficient space to allow a minimum of 10 feet between all combustible storage and the heating, mechanical or electrical equipment in the room.

Delete section 405.2 and table 405.2 and insert in lieu thereof the following new section and new table:

405.2 Frequency. Required emergency evacuation drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

TABLE 405.2

FIRE AND EVACUATION DRILL FREQUENCY AND PARTICIPATION

GROUP OR OCCUPANCY	FREQUENCY	PARTICIPATION
Group A	Quarterly	Employees
Group B ^(c)	Annually	Employees
Group E	See ^(a) below	All occupants
Group I	Quarterly on each shift	Employees
Group I ^(b) and Group R-4 (assisted living facilities)	Quarterly	All occupants
Group R-1	Quarterly on each shift	Employees
Group R-2 ^(d)	Four annually	All occupants
High-rise	Annually	Employees

Footnotes:

^(a) The frequency shall be allowed to be modified in accordance with Section 408.3.2. Fire and severe weather drills shall be conducted in accordance with Iowa Code chapter 100.

^(b) Fire and evacuation drills in assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Drills shall be conducted not less than six times per year on a bimonthly basis, with not less than two drills conducted during the night when residents could reasonably be expected to be sleeping. The drills shall be permitted to be announced in advance to the residents. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

(c) Group B buildings that have an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.

(d) Applicable to Group R-2 college and university buildings in accordance with Section 408.3.

Delete section 609.1 and insert in lieu thereof the following new section:

609.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of National Fire Protection Association (NFPA) 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2004 edition.

Delete section 807.4.3.1 and insert in lieu thereof the following new section:

807.4.3.1 Storage in corridors and lobbies. Clothing and personal effects shall not be stored in corridors and lobbies.

Exceptions:

1. Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1.

2. Storage in metal lockers, provided the minimum required egress width is maintained.

Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where Required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

2. Within 30 feet (9144 mm) of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms.

Add the following new paragraph to section 907.2.2:

4. The Group B fire area that contains an educational occupancy for students above the twelfth grade with an occupant load of greater than 50 persons.

Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.

2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:

2.1. Interior corridors are protected by smoke detectors with alarm verification.

2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.

2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

2.4. Off-premises monitoring is provided.

2.5. The capability to activate the evacuation signal from a central point is provided.

2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow, and manual activation is provided from a normally occupied location.

Add the following new section 1003.8:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

Delete section 1028.1.1 and insert in lieu thereof the following new section:

1028.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2007 edition, with the following amendments to ICC-300:

Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers, folding and telescopic seating installed on or after [insert effective date of this amendment] to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to [insert effective date of this amendment] shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

Amend any reference to any section within chapter 22 to read as a reference to "Chapter 22."

Delete chapter 22 and insert in lieu thereof the following new chapter:

CHAPTER 22

MOTOR FUEL-DISPENSING FACILITIES AND REPAIR GARAGES

SECTION 2201

GENERAL

2201.1 Motor fuel-dispensing facilities and repair garages shall comply with the applicable provisions of 661—Chapter 221.

Amend any reference to any section within chapter 34 to read as a reference to "Chapter 34."

Delete chapter 34 and insert in lieu thereof the following new chapter:

CHAPTER 34

FLAMMABLE AND COMBUSTIBLE LIQUIDS

SECTION 3401

GENERAL

3401.1 Transportation, storage, handling, and use of flammable and combustible liquids shall comply with the applicable provisions of 661—Chapter 221.

Amend any reference to any section within chapter 38 to read as a reference to "Chapter 38."

Delete chapter 38 and insert in lieu thereof the following new chapter:

PUBLIC SAFETY DEPARTMENT[661](cont'd)

CHAPTER 38
LIQUEFIED PETROLEUM GASES
SECTION 3801
GENERAL

3801.1 Transportation, storage, handling, and use of liquefied petroleum gases shall comply with the applicable provisions of 661—Chapter 226.

Delete section 4603.6.1 and insert in lieu thereof the following new section:

4603.6.1 Existing Group E occupancies shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. Where smoke or heat detectors are installed, such detectors shall be connected to the building fire alarm system.

Exceptions:

1. A building with a maximum area of 1,000 square feet that contains a single classroom and is located no closer than 50 feet from another building.

2. Group E occupancy with an occupant load of less than 50.

Any reference to NFPA 10 is amended to read as follows:

NFPA 10 with the following amendment:

Delete sections 7.1.2.1, 7.1.2.2, and 7.1.2.3 and insert in lieu thereof the following new sections:

7.1.2.1 A trained person who has undergone the instructions necessary to reliably perform maintenance and has the manufacturer's service manual shall service the fire extinguishers not more than one year apart, as outlined in Section 7.3.

7.1.2.2* Maintenance, servicing, and recharging shall be performed by trained persons who have available the appropriate servicing manual(s), the proper types of tools, recharge materials, lubricants, and manufacturer's recommended replacement parts or parts specifically listed for use in the fire extinguisher.

NOTE: Requirements in NFPA 10 for certification of personnel who maintain portable fire extinguishers are removed. These personnel must still be trained and have available service manuals.

Adopt Appendices B, C, and D.

ARC 9562B

PUBLIC SAFETY DEPARTMENT[661]

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 103A.7, the Building Code Commissioner hereby gives Notice of Intended Action to amend Chapter 301, “State Building Code—General Provisions,” Iowa Administrative Code, with the approval of the Building Code Advisory Council.

Iowa Code section 103A.7 authorizes the Building Code Commissioner, with the approval of the Building Code Advisory Council, to adopt requirements for safe construction of those buildings and facilities which are subject to the rules adopted. Included in the State of Iowa Building Code are requirements for bleachers, telescopic and folding seating, and grandstands. Language included in a nationally recognized standard for these types of seating, which is adopted by reference within the State of Iowa Building Code, requires annual inspections. The same standard has also been adopted by reference within the rules of the State Fire Marshal.

Several inquiries have been received recently regarding the qualifications of the persons who perform the required inspections. This issue was addressed by a formal interpretation of the requirement issued

PUBLIC SAFETY DEPARTMENT[661](cont'd)

jointly by the State Fire Marshal and the Building Code Commissioner in May 2011. The amendment proposed herein would incorporate the explanatory language used in the interpretation directly into the rule. This language should aid in reducing confusion about who may perform the required inspections. The language proposed herein clarifies that any person, including the owner or an employee of the owner of the structure being inspected, may perform a required inspection, provided that the person performing the inspection is knowledgeable about the requirements for the structure.

Any person may submit comments regarding this proposed amendment in writing by mail to the Agency Rules Administrator, Iowa Department of Public Safety, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319; or by electronic mail to admrule@dps.state.ia.us. All comments must be received no later than 4:30 p.m. on August 1, 2011, or may be submitted at the public hearing.

A public hearing on this proposed amendment will be held on August 2, 2011, at 10 a.m. in the First Floor Public Conference Room, State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa. Any person who wishes to comment on the proposed amendment is welcome to participate in the public hearing. The public hearing will be held jointly with the State Fire Marshal, who is proposing an amendment to the rules of the State Fire Marshal identical to this proposed amendment. The amendment to the State Fire Marshal's rule is published herein as **ARC 9561B**.

Provisions of the State of Iowa Building Code are generally not subject to waiver but instead may be subject to requests for approval of alternate materials or methods of construction, as provided in Iowa Code section 103A.13 and rules 661—300.2(103A) and 661—300.3(103A).

No fiscal impact is anticipated from the adoption of this amendment.

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

This amendment is intended to implement Iowa Code section 103A.7.

The following amendment is proposed.

Amend rule 661—301.3(103A) as follows:

661—301.3(103A) General provisions. The provisions of the International Building Code, 2009 edition, published by the International Code Council, 5203 Leesburg Pike, Suite 600, Falls Church, VA 22041, are hereby adopted by reference as the general requirements for building construction, with the following amendments:

Delete section 101.1.

Delete section 101.2 and insert in lieu thereof the following new section:

101.2 Scope. The provisions of this code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the International Residential Code, as amended by rule 661—301.8(103A).

Delete section 101.4 and sections therein.

Delete section 102.6 and insert in lieu thereof the following new section:

102.6 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as specifically covered in this code or the state fire code, or as deemed necessary by the building code commissioner for the general safety and welfare of the occupants and the public.

Delete sections 103, 104, 105 and sections therein.

Delete section 106.2.

Delete section 107.1 and insert in lieu thereof the following new section:

107.1 General. Submittal documents consisting of construction documents, statement of special inspections, a geotechnical report and other data shall be submitted in one or more sets with each plan review application. The construction documents shall be prepared by a responsible design professional

PUBLIC SAFETY DEPARTMENT[661](cont'd)

where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the commissioner is authorized to require additional construction documents to be prepared by a responsible design professional.

Exception: The commissioner is authorized to waive the submission of construction documents and other data not required to be prepared by a responsible design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

Delete sections 107.3, 107.4, and 107.5 and sections therein.

Delete sections 109, 110, 111, 112, 113, 114, 115, and 116 and sections therein.

Delete section 906.1 and insert in lieu thereof the following new section:

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1 of the International Fire Code.

5. Where required by the sections indicated in Table 906.1.

6. Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

Delete section 907.2.2 and insert in lieu thereof the following new section:

907.2.2 Group B. A manual fire alarm system shall be installed in Group B occupancies where one of the following conditions exists:

1. The combined Group B occupant load of all floors is 500 or more.
2. The Group B occupant load is more than 100 persons above or below the lowest level of exit discharge.
3. The Group B fire area contains a Group B ambulatory health care facility.
4. The Group B fire area contains an educational occupancy for students above the twelfth grade with an occupant load of 50 or more persons.

Exception: Manual fire alarm boxes are not required where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 and the occupant notification appliances will activate throughout the notification zones upon sprinkler water flow.

Delete section 907.2.3 and insert in lieu thereof the following new section:

907.2.3 Group E. In the absence of a complete automatic sprinkler system, a complete automatic detection system shall be installed throughout the entire Group E occupancy. A Group E occupancy with a complete automatic sprinkler system shall be provided with a fire alarm system with a minimum of corridor smoke detection, at a maximum spacing of 30 feet on center, and heat or smoke detection in any hazardous or nonoccupied areas. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

Exceptions:

1. Group E occupancies with an occupant load of less than 50.
2. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
 - 2.1. Interior corridors are protected by smoke detectors with alarm verification.
 - 2.2. Auditoriums, cafeterias, gymnasiums and the like are protected by heat detectors or other approved detection devices.
 - 2.3. Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
 - 2.4. Off-premises monitoring is provided.
 - 2.5. The capability to activate the evacuation signal from a central point is provided.
 - 2.6. In buildings where normally occupied spaces are provided with a two-way communication system between such spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, except in locations specifically designated by the fire code official.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

3. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system, the notification appliances will activate on sprinkler water flow and manual activation is provided from a normally occupied location.

Add the following new section 1003.8:

1003.8 Location of Preschool through Second Grade Students. In Group E occupancies, rooms normally occupied by preschool, kindergarten or first grade students shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade students shall not be located more than one story above the level of exit discharge.

Delete section 1028.1.1 and insert in lieu thereof the following new section:

1028.1.1 Bleachers, grandstands, and folding and telescopic seating that are not building elements shall comply with ICC-300, Standard for Bleachers, Folding and Telescopic Seating, and Grandstands, 2007 edition, with the following amendments to ICC-300:

Delete section 105.2 and insert in lieu thereof the following new section:

105.2 Yearly inspection required. The owner shall cause all bleachers, folding and telescopic seating installed on or after [insert effective date of this amendment] to be inspected at least once a year in order to verify that the structure is maintained in compliance with the provisions of this standard. All folding and telescopic seating shall also be inspected to evaluate compliance with the manufacturer's installation and operational instructions during the opening and closing of such seating. Any inspection conducted in compliance with this section may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

Delete section 501.2 and insert in lieu thereof the following new section:

501.2 Inspections. All tiered seating that was installed prior to [insert effective date of this amendment] shall be inspected at least once a year. The required inspection may be conducted by any knowledgeable person including, but not limited to, a person who has been instructed by the manufacturer or installer as to procedures and standards for inspections of the structure being inspected and including, but not limited to, the owner of the structure or an employee of the owner of the structure. There are no further restrictions on the identity or employment of the person conducting the inspection unless otherwise provided by law. All folding and telescopic seating shall be inspected to evaluate compliance with the manufacturer's installation and operational instructions and shall be inspected during the opening and closing of such seating. The owner shall maintain documentation of the required annual inspections, which shall show the date and name of the person conducting the inspection and shall be initialed by the person conducting the inspection.

Add the following new section 1100:

1100. Any building or facility which is in compliance with the applicable requirements of 661—Chapter 302 shall be deemed to be in compliance with any applicable requirements contained in the International Building Code concerning accessibility for persons with disabilities.

Delete chapter 29.

Amend section 3001.2 by adding the following new unnumbered paragraph after the introductory paragraph:

Notwithstanding the references in Chapter 35 to editions of national standards adopted in this section, any editions of these standards adopted by the elevator safety board in 875—Chapter 72 are hereby adopted by reference. If a standard is adopted by reference in this section and there is no adoption by reference of the same standard in 875—Chapter 72, the adoption by reference in this section is of the edition identified in Chapter 35.

Amend section 3401.3 by deleting “International Private Sewage Disposal Code” and inserting in lieu thereof “567 Iowa Administrative Code Chapter 69.”

Delete appendices A through K.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

Delete all references to the “International Plumbing Code” and insert in lieu thereof “state plumbing code.”

Delete all references to the “ICC Electrical Code” and insert in lieu thereof “National Electrical Code, 2008 edition as amended by rule 661—301.5(103A).”

Delete all references to the “International Fuel Gas Code” and insert in lieu thereof “rule 661—301.9(103A).”

301.3(1) No change.

301.3(2) Reserved.

ARC 9558B

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

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 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 12, “Fees,” Iowa Administrative Code.

Chapter 12 describes the required fees for registration as a certified appraiser within the state of Iowa. The Board collects and transmits to the Federal Financial Institution Examination Council, on an annual basis, a roster of individuals who have received certification or registration as certified real property appraisers and a national registry fee, which is currently \$25. The national registry fee will be increasing to an annual fee of \$40 effective January 1, 2012. These amendments are intended to revise the required fees collected by the state of Iowa so that there is no fiscal impact to the state of Iowa.

A public hearing will be held on July 5, 2011, at 9 a.m. in the Second Floor Professional Licensing Conference Room, 1920 SE Hulsizer Road, Ankeny, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing any persons who wish to speak will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Consideration will be given to all written suggestions or comments received by 4:30 p.m. on July 5, 2011. Comments should be addressed to Toni Bright, Executive Officer, Iowa Real Estate Appraiser Examining Board, 1920 SE Hulsizer Road, Ankeny, Iowa 50021; or faxed to (515)281-7411. E-mail may be sent to toni.bright@iowa.gov.

There is no fiscal impact, provided that the amendments are adopted. Should the amendments not be adopted, then there will be a negative fiscal impact to the state of Iowa to compensate for the increase in the federal registry fee. These proposed amendments are not subject to any waiver as the fee is a federal fee.

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

These amendments are intended to implement Iowa Code section 543D.6.

The following amendments are proposed.

ITEM 1. Amend rule 193F—12.1(543D) as follows:

193F—12.1(543D) Required fees. The following fee schedule applies to certified general, certified residential and associate appraisers.

REAL ESTATE APPRAISER EXAMINING BOARD[193F](cont'd)

Initial examination application fee	\$100
Examination fee (and reexamination fee)	\$145
Biennial registration fee for active status:	
Certified general real property appraiser	\$360 <u>\$390</u>
Certified residential real property appraiser	\$360 <u>\$390</u>
Associate real property appraiser	\$250
Biennial registration fee for inactive status:	
Certified general real property appraiser	\$100 <u>\$130</u>
Certified residential real property appraiser	\$100 <u>\$130</u>
Associate real property appraiser	\$50
Temporary practice permit fee (each request)	\$150
Reciprocal application fee (one time only)	\$50
Reciprocal registration fee (biennial)	\$360 <u>\$390</u>
Fee to reinstate a lapsed license	\$150 (plus the registration fee)
Fee to reinstate an inactive license to active status	\$50
Reissuance or replacement of a lost, destroyed, or stolen certificate or registration	\$50
Work product review fees:	
Original submission, certified residential	\$300
Original submission, certified general	\$650
Additional residential reports as requested by the board	\$150 per report
Additional nonresidential reports as requested by the board	\$250 per report
Voluntary submission of residential reports for review	\$150 per report
Voluntary submission of nonresidential reports for review	\$250 per report

ITEM 2. Amend rule 193F—12.3(543D) as follows:

193F—12.3(543D) Federal registry fee. The board shall collect and transmit to the Federal Financial Institutions Examination Council, on an annual basis, a roster of individuals who have received certification or registration as real property appraisers and a registry fee of ~~\$25~~ \$40 for each individual listed on the roster. The registry fee is included in the registration fee.

ARC 9564B

SECRETARY OF STATE[721]

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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

SECRETARY OF STATE[721](cont'd)

These proposed amendments are necessary to make a technical correction to an existing subrule, establish a special election blackout period during redistricting when the statewide voter database is being updated, adjust the notice of election to reflect updated text telephone (TTY) access technology, adopt a new rule relating to tabulation of election results for merged area special elections, and rescind a rule that is no longer necessary.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 5, 2011. Written suggestions or comments should be directed to Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State's office by telephone at (515)281-0145 or in person at the Secretary of State's office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by July 5, 2011.

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

These amendments are intended to implement Iowa Code chapters 49 and 53.

The following amendments are proposed.

ITEM 1. Amend subrule 21.2(2) as follows:

21.2(2) Original absentee ballot applications. The original absentee ballot application submitted electronically shall also be mailed or delivered to the commissioner. ~~The~~ If mailed, the envelope bearing the original absentee ballot application shall be postmarked not later than the Friday before the election. This subrule shall not apply to documents submitted electronically by UOCAVA voters pursuant to rule 721—21.320(53).

a. The voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the original absentee ballot application which was filed electronically is not received ~~in the mail~~ by the time the polls close on election day.

b. The voter's absentee ballot shall be rejected by the absentee and special voters precinct board if the postmark on the envelope containing the original absentee ballot application is either illegible or later than the Friday before the election.

ITEM 2. Adopt the following new rule 721—21.33(49):

721—21.33(49) Redistricting special election blackout period. A special election shall not be held on the three Tuesdays preceding January 15 of years ending in the number two.

This rule is intended to implement Iowa Code chapter 49.

ITEM 3. Amend subrule 21.50(10) as follows:

21.50(10) Notice required. Each notice of election published pursuant to Iowa Code section 49.53 shall clearly describe which polling places are inaccessible. The notice shall include a description of the services available to persons with disabilities who live in precincts with inaccessible polling places. The notice shall be in substantially the following form:

Any voter who is physically unable to enter a polling place has the right to vote in the voter's vehicle. For further information, please contact the county auditor's office at the telephone or TTY number or E-mail address listed below:

Telephone: _____ TTY: _____ E-mail address: _____ . For TTY access, dial 711 + [auditor's office number].

ITEM 4. Adopt the following new rule 721—21.204(260C):

721—21.204(260C) Tabulating election results by school district for merged area special elections. All results for merged area special elections, including special precinct results, shall be tabulated by school district.

This rule is intended to implement Iowa Code chapter 260C.

ITEM 5. Rescind and reserve rule **721—21.600(43)**.

ARC 9560B**SECRETARY OF STATE[721]****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 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” Iowa Administrative Code.

These proposed amendments are necessary to establish a standard of maximum allowable deviation in population between school director districts and between city wards when boundaries are drawn. Iowa Code sections 275.23A and 372.13 require both school director districts and city wards to be “as nearly equal as practicable to the ideal population.” The ideal population is determined by dividing the number of districts or wards to be established into the population of the school district or city. In addition, the United States Supreme Court has held that, in general, apportionment plans with maximum population deviations under 10 percent are not sufficient, in and of themselves, to make out a prima facie case of discrimination under the Fourteenth Amendment. See *Brown v. Thompson*, 462 U.S. 835, 842.

Any interested person may make written suggestions or comments on these proposed amendments on or before July 5, 2011. Written suggestions or comments should be directed to Sarah Reisetter, Director of Elections, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s office by telephone at (515)281-0145 or in person at the Secretary of State’s office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by July 5, 2011.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9559B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

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

These amendments are intended to implement Iowa Code sections 275.23A and 372.13.

ARC 9559B

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 21, "Election Forms and Instructions," Iowa Administrative Code.

These amendments are necessary to establish a standard of maximum allowable deviation in population between school director districts and between city wards when boundaries are drawn. Iowa Code sections 275.23A and 372.13 require both school director districts and city wards to be "as nearly equal as practicable to the ideal population." The ideal population is determined by dividing the number of districts or wards to be established into the population of the school district or city. In addition, the United States Supreme Court has held that, in general, apportionment plans with maximum population deviations under 10 percent are not sufficient, in and of themselves, to make out a prima facie case of discrimination under the Fourteenth Amendment. See *Brown v. Thompson*, 462 U.S. 835, 842.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because the standard being applied in these new rules is consistent with the standard established by the United States Supreme Court for other district apportionment purposes. Both new rules confer benefits on the voting public by ensuring that district and ward population variances are as minimal as possible.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments should be made effective upon filing. The normal effective date should be waived because school districts and cities are currently in the process of preparing to redraw district and ward boundaries at this time. Cities are required to file their precincting plans with the Secretary of State's office no later than September 1, 2011, which is earlier than the normal effective date of these amendments.

These amendments are also published herein under Notice of Intended Action as **ARC 9560B** to allow for public comment.

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

These amendments are intended to implement Iowa Code sections 275.23A and 372.13.

These amendments became effective May 23, 2011.

The following amendments are adopted.

ITEM 1. Adopt the following new rule 721—21.31(275):

721—21.31(275) School director district maximum allowable deviation from ideal district population. Each director district shall have a population that exceeds the population of any other director district by no more than 10 percent. Director district plans with variations in excess of 10 percent between two or more districts shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 275.23A.

This rule is intended to implement Iowa Code section 275.23A.

ITEM 2. Adopt the following new rule 721—21.32(372):

721—21.32(372) City ward maximum allowable deviation from ideal ward population. Each city ward shall have a population that exceeds the population of any other city ward by no more than 10 percent. City ward plans with variations in excess of 10 percent between two or more wards shall be accompanied by justification for the deviation and shall be rejected by the secretary of state unless the

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deviation is necessary to comply with one of the other standards enumerated in Iowa Code section 372.13, subsection 7.

This rule is intended to implement Iowa Code section 372.13.

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[Published 6/15/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/15/11.

ARC 9553B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.173 and 455B.105(11), the Environmental Protection Commission hereby amends Chapter 64, "Wastewater Construction and Operation Permits," Iowa Administrative Code.

The purpose of this rule making is to allow reissuance of NPDES General Permit No. 5 for mining and processing facilities for a period of five years. General Permit No. 5 was originally issued July 18, 2001, and expired July 17, 2006.

General Permit No. 5 authorizes discharges to surface waters throughout the state of Iowa of wash water, materials transport water, scrubber water used for air pollution control, water used for dust suppression, mine or quarry dewatering, and noncontact cooling water used for ancillary mining equipment. Facilities covered under the permit are primarily engaged in mining or quarrying dimension stone; crushed and broken limestone; construction sand and gravel; and clay, ceramic, and refractory minerals, not elsewhere classified, except bentonite and magnesite.

The primary pollutants of concern in discharges from mining and quarrying operations are suspended solids and pH; thus, the general permit includes limitations for these parameters to ensure protection of water quality. Based on information provided by the mining and quarrying community, sulfate is an additional pollutant of concern. The permit requires every facility seeking coverage under the general permit to submit a sample result for sulfate in its Notice of Intent (NOI). The sulfate sample result will determine whether the discharge from the facility is eligible for coverage under NPDES General Permit No. 5. Any discharge with a sulfate concentration greater than 1,514 mg/L will not be eligible for coverage under the general permit, and the facility will be required to apply for an individual NPDES permit.

Discharges to Outstanding Iowa Waters (OIW), Outstanding National Resource Waters (ONRW), and state-owned artificial and natural lakes are not authorized under General Permit No. 5. These discharges that are not authorized are in addition to discharges already excluded from coverage by the previously issued permit.

The permit requires that new and expanded dischargers use best management practices to reduce the discharge of pollutants. The best management practices include using settled wash water for dust suppression, maximizing settling of suspended solids, recycling materials wash water whenever practical, and using hydraulic dredging whenever practical and affordable (sand and gravel facilities only).

Notice of Intended Action was published in the Iowa Administrative Bulletin on February 9, 2011, as **ARC 9364B**. These amendments were modified from those published under Notice of Intended Action to correct the effective date of the permit. In subrule 64.15(5), the effective date of the general permit was changed from July 18, 2011, to July 20, 2011.

The following modifications were made to General Permit No. 5:

1. Discharges from sites where miscellaneous nonmetallic minerals are mined will not be authorized under the permit because discharges of process-generated wastewater pollutants from the majority of nonmetallic mineral mining operations are prohibited by federal and state regulations. Nonmetallic minerals are not mined in Iowa.
2. Discharges from sites where bentonite and magnesite are mined will not be authorized under the permit because discharge of process-generated wastewater from sites that mine these materials is prohibited by federal and state regulations. These materials are not mined in Iowa.
3. The deadline for filing a Notice of Intent was changed from July 17, 2011, to July 19, 2011, to reflect the effective date of the permit (July 20, 2011).
4. The definition of storm water discharge associated with industrial activity was changed to reflect federal and state regulations. Previous regulations considered storm water runoff from construction sites

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where more than five acres is disturbed to be associated with industrial activity while the current standard is one acre.

The adopted amendments to Chapter 64 that accompany General Permit No. 5 are summarized below.

- 1. Revision of the transfer of title and owner address change requirements to include transfer of coverage under General Permit No. 5.
- 2. Establishment of an effective date for the reissue of General Permit No. 5.
- 3. Revision of the NPDES fee schedule to include General Permit No. 5 annual fees.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

These amendments will become effective July 20, 2011.

The following amendments are adopted.

ITEM 1. Amend rule 567—64.14(455B), catchwords, as follows:

567—64.14(455B) Transfer of title ~~or~~ and owner or operator address change.

ITEM 2. Adopt the following **new** subrules 64.14(1) and 64.14(2):

64.14(1) *Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)“a”(5).* If title to any disposal system or part thereof for which a permit has been issued is transferred, the new owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.

64.14(2) *Permits issued under 64.6(1)“a”(5).* When the operator of a facility changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.

ITEM 3. Amend subrule 64.15(5) as follows:

64.15(5) “Discharge from Mining and Processing Facilities,” NPDES General Permit No. 5, effective ~~July 18, 2001~~ July 20, 2011.

ITEM 4. Amend subparagraph **64.16(3)“a”(5)** as follows:

(5) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5. ~~Fees as established in Iowa Code section 455B.197 are to be submitted by August 30 of every year unless a multiyear fee payment was received in an earlier year. New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is five years, four years, three years, and one year, respectively. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.~~

<u>Annual Permit Fee</u>	<u>\$125 (per year)</u>
	<u>or</u>
<u>Five-year Permit Fee</u>	<u>\$500</u>
<u>Four-year Permit Fee</u>	<u>\$400</u>
<u>Three-year Permit Fee</u>	<u>\$300</u>

New facilities seeking General Permit No. 5 coverage shall submit fees with the Notice of Intent for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three

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years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

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