



# IOWA ADMINISTRATIVE BULLETIN

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IOWA STATE LAW LIBRARY  
STATE HOUSE

## PREFACE

The Iowa Administrative Bulletin is published in pamphlet form biweekly pursuant to Chapter 17A, The Code, and supersedes Part I of the Iowa Administrative Code Supplement.

The Bulletin contains Notices of Intended Action on rules, Filed and Filed Emergency rules by state agencies [continue to refer to General Information for drafting style and form], all proclamations and executive orders of the Governor which are general and permanent in nature, and other "materials deemed fitting and proper by the Administrative Rules Review Committee."

The Bulletin may also contain economic impact statements to proposed rules and filed emergency rules, objections filed by Administrative Rules Review Committee, Governor or the Attorney General, any delay by the Committee of the effective date of filed rules, and agenda for monthly committee meetings.

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike through letters~~ indicate deleted material.

**The ARC number which appears before each agency heading is assigned by the Administrative Rules Co-ordinator for identification purposes and should always be used when referring to this item in correspondence and other communications.**

The Iowa Administrative Code Supplement is also published every other week in loose-leaf form, pursuant to section 17A.6, The Code. It contains replacement pages for the Iowa Administrative Code. These replacement pages incorporate amendments to existing rules, new rules or emergency or temporary rules which have been filed with the administrative rules co-ordinator and published in the Bulletin.

WAYNE A. FAUPEL, Code Editor  
PHYLLIS BARRY, Deputy Code Editor  
LAVERNE SWANSON, Administrative Code Assistant

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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
12	Friday, November 19, 1982	December 8, 1982
13	Friday, December 3, 1982	December 22, 1982
14	Friday, December 17, 1982	January 5, 1983

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## SUBSCRIPTION INFORMATION

### Iowa Administrative Bulletin

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The Administrative Rules Review Committee will hold a special meeting Tuesday November 30, 1982, 10:00 a.m., and Wednesday, December 1, 1982, 9:00 a.m., Committee Room 116, State Capitol. This meeting will be held in lieu of the statutory date. The following rules will be reviewed:

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<b>AGRICULTURE DEPARTMENT[30]</b>		
Agricultural seeds, ch 5 IAB 11/24/82 ARC 3392	Second Floor Conference Room Henry A. Wallace Bldg. Des Moines, Iowa	December 17, 1982 10:00 a.m.
Weights and measures, 55.48(3)"c" IAB 11/24/82 ARC 3373	First Floor Conference Room Henry A. Wallace Bldg. Des Moines, Iowa	December 16, 1982 10:00 a.m.
<b>BEER AND LIQUOR CONTROL DEPARTMENT[150]</b>		
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<b>COMMERCE COMMISSION[250]</b>		
Bonded warehouse and grain dealers, amendments to chs 12 and 13 IAB 11/10/82 ARC 3355	Hearing Room First Floor Lucas State Office Bldg. Des Moines, Iowa	December 8, 1982 10:00 a.m.
<b>CONSERVATION COMMISSION[290]</b>		
Use of firearms, 8.1(3) IAB 11/24/82 ARC 3381	Fourth Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 28, 1982 10:00 a.m.
<b>EMPLOYMENT SECURITY[370]</b>		
Employer records, reports, contribution and charges, claims and benefits and appeal procedures, chs 2-4 and ch 6 IAB 11/24/82 ARC 3370	Job Service Office 1000 E. Grand Ave. Des Moines, Iowa	December 15, 1982 9:30 a.m.
<b>ENGINEERING EXAMINERS, BOARD OF[390]</b>		
Building structures and systems, ch 5 IAB 11/10/82 ARC 3366	West Conference Room 1209 E. Court Ave. Executive Hills West Des Moines, Iowa	December 16, 1982 1:00 p.m.
<b>ENVIRONMENTAL QUALITY DEPARTMENT[400]</b>		
Waste water, construction and operation permits, amendments to chs 15 and 19 IAB 11/10/82 ARC 3352	Auditorium Henry A. Wallace Bldg. Des Moines, Iowa	December 13, 1982 9:00 a.m.
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Professional/managerial pay plan, amendments to chs 1 to 12, 14 and 17 IAB 11/10/82 ARC 3346 (See IAB 10/13/82 ARC 3304)	Merit Department Conference Room Grimes State Office Bldg. Des Moines, Iowa	December 3, 1982 9:00 a.m.
<b>PLANNING AND PROGRAMMING[630]</b>		
Community Services Block Grant program, amendments to ch 22 IAB 11/10/82 ARC 3343	Conference Room 523 E. 12th St. Des Moines, Iowa	December 1, 1982 10:00 a.m.
<b>PUBLIC SAFETY DEPARTMENT OF[680]</b>		
Crime victim reparation, ch 17 IAB 11/24/82 ARC 3390	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	December 15, 1982 10:00 a.m.

**SOCIAL SERVICES DEPARTMENT[770]**

Foster care services, ch 136

IAB 11/24/82 **ARC 3395**(See also IAB 9/29/82 **ARC 3237**)Conference Room  
Des Moines District Office  
Des Moines, IowaDecember 16, 1982  
2:00 p.m.**TRANSPORTATION, DEPARTMENT OF[820]**OMVUI and implied consent,  
[07,C] driver licensing,IAB 6/23/82 **ARC 2973**Department of Transportation  
Complex  
Ames, Iowa

November 30, 1982

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Complex  
Ames, Iowa

November 30, 1982

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November 30, 1982

Special permits,

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IAB 10/27/82 **ARC 3330**Department of Transportation  
Complex  
Ames, Iowa

December 14, 1982

**ARC 3392****AGRICULTURE DEPARTMENT[30]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 159.5(11), 189.2(2) and 199.11(1)\*b\*, the Iowa Department of Agriculture hereby gives Notice of Intended Action to amend Chapter 5, "Agricultural Seeds", Iowa Administrative Code. The Sixty-ninth General Assembly substantially revised the Iowa Agricultural Seeds law, Iowa Code chapter 199. These rules are promulgated to fulfill the mandate and accomplish the legislative intent of 1982 Iowa Acts, chapter 1191. It is proposed that chapter 5 be rescinded and new rules adopted to bring the department's regulations into compliance with the new legislation.

These proposed rules were formulated in conjunction with the Seed Advisory Council. This group includes members of the industry and representatives of the horticulture department, seed science center and agronomy department of Iowa State University, Iowa Seed Dealers Association, Iowa Farm Bureau and Iowa Crop Improvement Association.

Any interested person may submit written comments concerning the proposed rule to Secretary Robert H. Lounsberry, Iowa Department of Agriculture, Henry A. Wallace Building, East 9th & Grand, Des Moines, Iowa 50319, before December 15, 1982. A public hearing has been scheduled to be held at 10:00 a.m., December 17, 1982, in the Second Floor Conference Room, Henry A. Wallace Building, Des Moines, Iowa. Interested persons may present their views at this public hearing either orally or in writing.

These rules are intended to implement Iowa Code chapter 199, as amended by 1982 Iowa Acts chapter 1191 (Senate File 2221).

The following amendments are proposed:

Chapter 5, "Agricultural Seeds", is amended by striking it in its entirety and inserting in lieu thereof the following:

**CHAPTER 5****AGRICULTURAL SEEDS**

**30-5.1(199) Agricultural seeds.** The term "agricultural seeds" shall mean, in addition to those defined as such in Iowa Code subsection 199.1(2), all such seeds listed in 7 C.F.R., Section 201.2(h), revised as of January 1, 1982, with the following exceptions:

- Alfilaria-Erodium cicutarium (L)
- Bluegrass, annual-Poa annua L.
- Chess, soft-Bromus mollis L.
- Hemp-Cannabis sativa L.
- Johnson grass-Sorghum halepense (L)
- Mustard-Brassica juncea (L)
- Mustard-black-Brassica nigra
- Rape, bird-Brassica campestris L.
- Rape, turnip-Brassica campestris vars.
- Sorghum alnum-Sorghum alnum

**30-5.2(199) Seed testing.** The terms used in seed testing and the methods of sampling, inspecting, analyzing, testing and examining agricultural and vegetable seeds and the tolerances to be followed in the administration of this Act shall be those adopted by the Association of Official Seed Analysts, RULES FOR TESTING SEEDS, Vol. 6, Number 2 (1981).

**30-5.3(199) Labeling.** Agricultural and vegetable seeds in package or wrapped form shall be labeled in accordance with Iowa Code section 189.9(1). In addition, labeling requirements appearing in Title 7, C.F.R., Subchapter K, Part 201, sections 201.8 through and including 201.36(c), revised as of January 1, 1982, are hereby adopted by this reference and shall be the labeling requirements for agricultural and vegetable seeds in Iowa.

**30-5.4 and 5.5** Reserved.

**30-5.6(199) Classes and sources of certified seed.**

**5.6(1) Terms defined.**

a. Breeder seed is seed directly controlled by the originating or sponsoring plant breeding institution, firm or individual and is the source for the production of seed of the certified classes.

b. Foundation seed is a class of certified seed which is the progeny of breeder or foundation seed handled to maintain specific genetic purity and identity. Production must be acceptable to the certifying agency.

c. Registered seed is a class of certified seed which is the progeny of breeder or foundation seed handled under procedures acceptable to the certifying agency to maintain satisfactory genetic purity and identity.

d. Certified seed is a class of certified seed which is the progeny of breeder, foundation or registered seed so handled as to maintain satisfactory genetic purity and identity and which has been acceptable to the certifying agency.

e. "Inbred line" means a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

**5.6(2)** Reserved.

**30-5.7(199) Labeling of seeds with secondary noxious weeds.** In addition to the labeling requirements for all agricultural seeds, such seeds containing secondary noxious weeds shall contain on their labels, the following information:

The name and approximate number of each kind of secondary noxious weed seed per pound in groups 1, 2, 3 and 4 below, when present singly or collectively in excess of:

1. Eighty seeds or bulbets per pound of *Agrostis* species, *Poa* species, Bermuda grass, timothy, orchard grass, fescues (except meadow fescue), alsike and white clover, reed canary grass and other agricultural seeds of similar size and weight or mixtures with this group.

2. Forty-eight seeds or bulbets per pound of rye grass, meadow fescue, foxtail millet, alfalfa, red clover, sweet clover, lespedeza, smooth brome, crimson clover, Brassica species, flax, *Agropyron* species and other agricultural seeds of similar size and weight or mixtures within this group or of this group with 1.

3. Sixteen seeds or bulbets per pound of proso, Sudan grass and other agricultural seeds of similar size and weight or mixtures not specified in 1, 2 or 4.

AGRICULTURE DEPARTMENT[30] (cont'd)

4. Five seeds or bulbets per pound of wheat, oats, rye, barley, buckwheat, sorghum (except Sudan grass), vetches, soybeans and other agricultural seeds of a size and weight similar to or greater than those within this group.

All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this chapter.

**30—5.8(199) Germination standards for vegetable seeds.** The following standards for the germination of vegetable seeds are hereby adopted:

	Percent		Percent
Artichoke .....	60	Beet .....	65
Asparagus .....	70	Broadbean .....	75
Asparagus bean .....	75	Broccoli .....	75
Bean, garden .....	70	Brussels sprouts .....	70
Bean, lima .....	70	Cabbage .....	75
Bean, runner .....	75	Leek .....	60
Cantaloupe (See muskmelon)		Lettuce .....	80
Cardoon .....	60	Muskmelon .....	75
Carrot .....	55	Mustard, India .....	75
Cauliflower .....	75	Mustard, spinach .....	75
Celeriac .....	55	Okra .....	50
Celery .....	55	Onion .....	70
Chard, Swiss .....	65	Onion, Welsh .....	70
Chicory .....	65	Pak-choi .....	75
Chinese cabbage .....	75	Parsley .....	60
Chives .....	50	Parsnip .....	60
Collards .....	80	Pea .....	80
Corn, sweet .....	75	Pepper .....	55
Cornsalad .....	70	Pumpkin .....	75
Cowpea .....	75	Radish .....	75
Cress, garden .....	75	Rhubarb .....	60
Cress, upland .....	60	Rutabaga .....	75
Cress, water .....	40	Salsify .....	75
Cucumber .....	80	Soybean .....	75
Eggplant .....	60	Spinach, New Zealand .....	40
Endive .....	70	Spinach .....	60
Kale .....	75	Squash .....	75
Kohlrabi .....	75	Tomato .....	50
Tomato, husk .....	50	Turnip .....	80
Watermelon .....	70		

**30—5.9(199) White sweet clover.** Sweet clover seed containing more than five percent of yellow sweet clover seed (more than 1.25 percent mottled seeds) must not be labeled white sweet clover. Such seed must be labeled sweet clover or as a mixture.

**30—5.10(199) Labeling of conditioned seed distributed to wholesalers.** Labeling of seed supplied to a wholesaler whose predominant business is to supply seed to other distributors rather than to consumers of seed, may be by invoice if each bag or other container is clearly identified by a lot number stenciled on the container or if the seed is in bulk. Each bag or container that does not carry a stenciled lot number must carry complete labeling.

**30—5.11(199) Seeds for sprouting.** The following information shall be indicated on all labels of seeds sold for sprouting in health food stores or other outlets:

1. Commonly accepted name of kind,
2. Lot number,
3. Percentage by weight of the pure seed, crop seeds, inert matter and weed seeds if required,
4. Percentage of germination, and
5. The calendar month and year the test was completed to determine such percentage.

**30—5.12(199) Relabeling.** The following information shall appear on a label for seeds relabeled in their original containers:

**5.12(1)** The calendar month and year the test was completed to determine such percentage of germination, and

**5.12(2)** The identity of the labeling person, if different from original labeler.

**30—5.13(199) Hermetically-sealed seed.** The following standards, requirements and conditions must be met before seed is considered to be hermetically sealed:

**5.13(1)** The seed was packaged within nine months after harvest,

**5.13(2)** The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F., with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as:

gm. H<sub>2</sub>O/24 hr./100sw. in./100°F./90% RH V. .0% RH.

**5.13(3)** The seed in the container does not exceed the percentage of moisture, on a wet weight basis, as listed below:

Agricultural seeds	Percent	Vegetable seeds	Percent
Beet, field .....	7.5	Corn, sweet .....	8.0
Beet, sugar .....	7.5	Cucumber .....	6.0
Bluegrass, Kentucky .....	6.0	Eggplant .....	6.0
Clover, crimson .....	8.0	Kale .....	5.0
Fescue, red .....	8.0	Kohlrabi .....	5.0
Ryegrass, annual .....	8.0	Leek .....	6.5
Ryegrass, perennial .....	8.0	Lettuce .....	5.5
All others .....	6.0	Muskmelon .....	6.0
<u>Vegetable seeds</u>	<u>Percent</u>	Mustard, India .....	5.0
Bean, garden .....	7.0	Onion .....	6.5
Bean, lima .....	7.0	Onion, Welsh .....	6.5
Beet .....	7.5	Parsley .....	6.5
Broccoli .....	5.0	Parsnip .....	6.0
Brussels sprouts .....	5.0	Pea .....	7.0
Cabbage .....	5.0	Pepper .....	4.5
Carrot .....	7.0	Pumpkin .....	6.0
Cauliflower .....	5.0	Radish .....	5.0
Celeriac .....	7.0	Rutabaga .....	5.0
Celery .....	7.0	Spinach .....	8.0
Chard, Swiss .....	7.5	Squash .....	6.0
Chinese cabbage .....	5.0	Tomato .....	5.0
Chives .....	6.5	Turnip .....	5.0
Collards .....	5.0	Watermelon .....	6.5
		All others .....	6.0

**5.13(4)** The container is conspicuously labeled in not less than 8-point type to indicate

- a. That the container is hermetically sealed,
- b. That the seed has been preconditioned as to moisture content, and
- c. The calendar month and year in which the germination test was completed.

**5.13(5)** The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in Title 7 C.F.R., section 201.31, revised as of January 1, 1982.

**30—5.14(199) Certification of seed and potatoes.** The Iowa Crop Improvement Association is the duly constituted state authority and state association recognized by the secretary to certify agricultural seed, including seed potatoes, in Iowa.



## AGRICULTURE DEPARTMENT[30] (cont'd)

**30—5.15(199) Federal regulations adopted.** Title 7, C.F.R., Subchapter K—Federal Seed Act—Parts 201, 202 revised as of January 1, 1982 and the Federal Seed Act, 7 U.S.C., Section 1551 et seq., amended as of December 22, 1981, are hereby adopted by this reference in their entirety.

These rules are intended to implement Iowa Code chapter 199, as amended by 1982 Iowa Acts, chapter 1191 (Senate File 2221).

**ARC 3373****AGRICULTURE DEPARTMENT[30]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 189.2(2), 214.10 and 215.24, the Iowa Department of Agriculture hereby gives Notice of Intended Action to amend Chapter 55, "Weights and Measures", and in particular, rule 30—55.48(214A,215), appearing in the Iowa Administrative Code, relating to the advertisement of the price of liquid petroleum products for retail use. The amendment is sought as a result of a Petition for Rulemaking filed by the Iowa Independent Oil Jobbers Association. The reason given for the substitution is clarification of price posting requirements for cash and credit sales of liquid petroleum products. Such clarification is needed to eliminate confusion among the motoring public as to price differences between cash and credit sales.

Any interested party may submit written suggestions or comments on this proposed rule on or before December 15, 1982, to Secretary Robert H. Lounsberry, Iowa Department of Agriculture, Wallace State Office Building, Des Moines, Iowa 50319. A public hearing will be conducted on December 16, 1982, at 10:00 a.m., in the First Floor Conference Room of the Wallace State Office Building, East 9th & Grand, Des Moines, Iowa. Interested persons are invited to present their views orally or in writing.

This rule amendment is intended to implement Iowa Code section 214A.3.

The following amendment is proposed:

Subrule 55.48(3) paragraph "c" is rescinded in its entirety and the following inserted in lieu thereof:

"c". If the petroleum marketer offers a discount for cash, the separate petroleum distribution pumps (dispensers) may register either the cash or credit price for each grade of product, provided there is also clearly displayed at or on the pump the corresponding credit or cash price.

This rule amendment is intended to implement Iowa Code chapter 214A.

**ARC 3378****CIVIL RIGHTS COMMISSION[240]****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 601A.5(10), the Iowa Civil Rights Commission hereby gives Notice of Intended Action to amend Chapter 1, Rules of Practice, Iowa Administrative Code.

The current subrule 1.15(1) has a typographical error and unnecessary use of certain words. The intended action is corrective only.

The current subrule 1.15(5) includes a 1953 case cite which, although still applicable, may tend to be restrictive in view of subsequent cases. Therefore, the purpose of deleting the case cite is to conform remedial provisions to the intent of Iowa Code chapter 601A.

Rule 240—1.15(601A) makes no specific provision for oral argument after issuance of the hearing officer's recommended decision and prior to commission review. Although the commission has the authority to allow or request oral argument, there are no rules implementing such action. The recommended addition of 1.15(3)—1.15(6) provides for such rules.

Any interested person may submit written suggestions or comments on these proposed rules to Artis Reis, Executive Director, Iowa Civil Rights Commission, Colony Building, 507 Tenth Street, Des Moines, Iowa 50319, before December 17, 1982. Persons who wish to convey their views orally should contact the same at the above address or call 515/281-4478.

These rules are intended to implement Iowa Code section 601A.15.

The following amendments are proposed.

ITEM 1. Subrule 1.15(1) is amended to read as follows:

**1.15(1)** Recommended decision. After a review of the transcript, the evidence, and the briefs, the hearing officer shall issue in writing his or her findings of fact, conclusions of law, and a proposed order then recommend the same as the recommended decision to the commission for its adoption, modification, or rejection.

Further amend rule 240—1.15(601A), by adding four new subrules and renumbering existing subrules accordingly.

**1.15(3)** Motion for oral argument. The commission on its own motion may, whenever justice requires, request the parties in a contested case proceeding to present oral argument to the commission prior to review of the recommended decision of the hearing officer.

Any party may request an opportunity to present oral argument to the commission prior to the review of the recommended decision of the hearing officer. Notice of such requests shall be given to all parties.

**1.15(4)** Time limit for request for oral argument. A request for oral argument pursuant to subrule 1.15(3), shall be in writing stating the reasons in support thereof and shall be filed with the commission no later than fifteen calendar days prior to the commission meeting at which the decision is scheduled for review.

**1.15(5)** Response of parties. All parties shall be afforded an opportunity to respond to the request for oral argu-

## CIVIL RIGHTS COMMISSION[240] (cont'd)

ment in writing. Such response shall be filed with the commission no later than three calendar days prior to the commission meeting at which the decision is scheduled for review.

**1.15(6)** Commission action on request for oral argument. The commission may grant or deny a request for oral argument. If the request is granted, the review of the hearing officer's recommended decision shall be postponed until after oral arguments have been heard. If the request is denied, the commission shall proceed with the review of the recommended decision as scheduled.

The commission shall issue an order either granting or denying request for oral argument. If the commission grants oral argument, the order shall state the date, time and place of the meeting at which oral arguments are to be heard. Such order shall be mailed by certified mail to the parties' last known mailing address.

ITEM 2. Subrule 1.15(5) is amended to read as follows:

~~1.15(5)~~ **1.15(9)** Content of orders. Orders of the commission shall seek to remedy an injury in accordance with the intent of Iowa Code chapter 601A and consistent with the theories on remedies expressed in *Amos v. Prom, Inc.*, 115 F. Supp. 127 (D.C. Iowa 1953).

This rule is intended to implement Iowa Code section 601A.15.

## ARC 3377

## COLLEGE AID COMMISSION[245]

## NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 261.1 and 261.15; 1981 Iowa Acts, chapter 8, section 6, the College Aid Commission proposes to amend chapter 6, Iowa Administrative Code.

The amendment is intended to extend the membership period of Advisory Council members from a two-year term to a four-year term.

Interested persons may comment or submit requests for an oral presentation by writing the Executive Director, Iowa College Aid Commission, 201 Jewett Building, Des Moines, Iowa 50309 on or before December 15, 1982.

This rule is intended to implement 1981 Iowa Acts, chapter 8.

Rule 245—6.1(261) is amended to read as follows:

**245—6.1(261) Advisory council.** An advisory council selected from officers of Iowa secondary schools, public area schools, Iowa independent colleges and universities, and state-supported universities, shall be established by the commission. Members are appointed to serve four

two-year terms with the exception of the elected presidents of the Iowa personnel and guidance association, the Iowa association of college admissions counselors, and the Iowa association of student financial aid administrators, who serve only for their one year in office. The council shall meet at least annually to review the state-supported student aid programs and make recommendations to the commission for revisions in policies and procedures.

## ARC 3381

## CONSERVATION COMMISSION[290]

## NOTICE OF INTENDED ACTION

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 107.24, the State Conservation Commission hereby gives Notice of Intended Action to amend Chapter 8, "Use of Firearms", Iowa Administrative Code.

This rule restricts the use or possession of firearms on certain game management areas.

Any interested person may make written suggestions or comments on this proposed rule prior to December 28, 1982. Such written materials should be directed to the Wildlife Superintendent, State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact the Wildlife Section at 515/281-6156 or at the wildlife offices on the fourth floor of the Wallace State Office Building. Also, there will be a public hearing on December 28, 1982, at 10:00 a.m. in the conference room on the fourth floor of the Wallace State Office Building, at which time persons may present their views either orally or in writing.

At the hearing, persons will be asked to give their names and addresses for the record, and to confine their remarks to the subject of the rule.

This rule is intended to implement Iowa Code chapter 109.

The following amendment is proposed.

Rule 290—8.1(109) is amended by adding the following new subrule:

**8.1(3) McIntosh Wildlife Area.** The use or possession of any firearms, except shotguns, on any portion of the McIntosh Wildlife Area in Cerro Gordo County is prohibited.

This rule is intended to implement Iowa Code section 109.6.

**ARC 3370**  
**EMPLOYMENT SECURITY[370]**  
 (JOB SERVICE)

**NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the Iowa Code sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby gives Notice of Intended Action to amend Chapter 2, "Employer Records and Reports"; Chapter 3, "Employer's Contribution and Charges"; Chapter 4, "Claims and Benefits"; and Chapter 6, "Appeals Procedure", Iowa Administrative Code.

These rules establish the date of actual receipt by the department as the date used to determine timeliness in a uniform manner for all documents, appeals and payments received by the department.

Interested persons, governmental agencies, and associations may present written comments or statements on the proposed amendments not later than 4:30 p.m., December 15, 1982, to James A. Hunsaker III, Iowa Department of Job Service, 1000 East Grand Avenue, Des Moines, Iowa 50319. A public hearing will be held at 9:30 a.m., December 15, 1982, at the above address. The proposed amendments are subject to revisions after the department considers all written and oral presentations. Persons who want to convey their views orally should contact Mr. Hunsaker at (515) 281-8093 or at the above address.

These rules are intended to implement Iowa Code sections 96.4, subsections (1) and (3); 96.5; 96.6, subsections (1), (2) and (5); and 96.11 subsection (1).

The following amendments are proposed.

ITEM 1. Amend subrule 2.16(1) paragraphs "a" and "b" to read as follows:

**2.16(1) Effect of postmark date of receipt.**

a. When the due date for filing reports and paying contributions falls on Sunday or a legal holiday it is sufficient compliance with the law if reports and contributions are ~~postmarked received~~ on or before midnight of the next succeeding business day following such Sunday or legal holiday.

b. Contributions, if mailed, shall be deemed to have been paid on the date of mailing as indicated by the ~~postmark on the cover thereof. If no postmark date on the cover, the date received by the department shall be deemed date of payment.~~

*This rule is intended to implement Iowa Code section 96.11(1).*

ITEM 2. Amend subrule 3.12(2) to read as follows:

~~3.12(2) If a separation occurs which, in the opinion of the employer, may disqualify the worker from receiving benefits for any reason defined in Iowa Code section 96.5. The Code, the employer shall within ten days after the separation, notify the department of the separation on form IESC 203, notice of separation. The IESC 203 shall be sent to the department and postmarked received by the tenth day after the date of the separation. The employer shall also deliver to the worker a copy of the notice at the time of separation, if possible, or, if delivery is impossible or impracticable, a copy of the notice shall be mailed to the last known address of the worker. See subrules 4.1(85) and 4.8(7).~~

This rule is intended to implement Iowa Code sections 96.5 and 96.6(2).

ITEM 3. Amend subrule 4.2(2), paragraph "a" to read as follows:

a. A claimant may file a claim for total unemployment benefits by completing form IESC 201, initial claim for unemployment, at a job service office. The carbon copies of the form will be used as the claimant's registration for work form (IESC 550), and notification of filing a claim to the claimant's last employer form (IESC 423). The form shall then be transmitted to the claims department for processing. Notification of filing for a claim will be sent to each base period employer on record by notice of claim filing (IESC 201A). If the last employer is not a base period employer, the employer shall be notified by form IESC 423. If the employer wishes to protest a claim or has any information which would affect the claimant's eligibility for job insurance benefits the employer may so indicate on form IESC 423 or IESC 201A and return it to the administrative office within ten days from the date of notification as shown by the postmark date on the form. The ten-day protest period will be determined by the ~~postmark on the envelope which contains date of receipt by the department of the form IESC 423 or IESC 201A which is returned from the employer.~~ In the event the tenth day falls on Saturday, Sunday, or holiday, the protest period is extended to the next working day of the department.

*This rule is intended to implement Iowa Code sections 96.4, subsections (1) and (3), and 96.6, subsections (1) and (2).*

ITEM 4. Amend subrule 6.4(1), paragraph "b", to read as follows:

b. Filing the appeal. An appeal shall be deemed filed on the date it is ~~delivered or mailed to received by the principal office of the appeal board or to the local office of the department. The mailing date shall be presumed to be the postmarked date appearing on the envelope if postage was prepaid and the envelope was properly addressed. The date of actual receipt of the appeal document will determine the timeliness of the appeal.~~ The appeal board shall deliver or mail a copy of the appeal to the respondent.

*This rule is intended to implement Iowa Code section 96.6(5).*

**ARC 3379****HEALTH DEPARTMENT[470]****BOARD OF PHYSICAL AND  
OCCUPATIONAL THERAPY EXAMINERS  
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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, 258A.2, and 258A.3, the Board of Physical and Occupational Therapy Examiners gives Notice of Intended Action to amend chapter 138 of the Iowa Administrative Code.

The proposed rules provide as grounds for disciplinary action failure to report disciplinary action taken by another state, territory, or country; clarify procedure for licensure; reduce supervision time required for an occupational therapy assistant; clarify that time spent by an occupational therapist in evaluating a patient shall not be considered time spent in supervision.

Any interested person may make written comments concerning the proposed rules not later than 4:30 p.m. December 15, 1982, directed to Peter J. Fox, Hearing Officer, Iowa State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319.

The proposed rules are intended to implement Iowa Code sections 148B.7, 258A.2, and 258A.3.

ITEM 1. Subrule 138.112(5) is rescinded and the following adopted in lieu thereof:

**138.112(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

ITEM 2. Subrule 138.112(10) is amended to read as follows:

**138.112(10)** Submission of a false report of continuing education or failure to submit the annual report of continuing education.

ITEM 3. Subrule 138.206(4) is amended to read as follows:

**138.206(4)** An applicant for a license as an occupational therapist moving into the state after December 30, 1981, who has not been licensed in another state but who has successfully completed the registration examination of the Professional Examination Service or Psychological Corporation for occupational therapy, shall show proof of practice for at least one of the past five years and provide evidence of having completed fifteen hours of continuing education relating to the practice of occupational therapy within the year previous to the application date may be licensed by waiver. Individuals who do not meet these requirements will be licensed by examination provided by the board. This does not apply to individuals who have graduated from an accredited occupational therapy program within the last twelve months prior to the application date.

ITEM 4. Subrule 138.209(2) is rescinded and the following adopted in lieu thereof:

**138.209(2)** Supervision is defined as a minimum of four hours a month of on-site and in-sight supervision for each occupational therapy assistant by an occupational therapist. The four hours of supervision shall include a minimum of two contacts on a one-to-one basis between the occupational therapist and the occupational therapy assistant.

ITEM 5. Subrule 138.209(3) paragraph "a" is amended to read as follows:

a. The evaluation of each patient by the occupational therapist prior to treatment by the occupational therapy assistant. *The time spent in evaluating the patient by the occupational therapist shall not be considered time spent in supervision of the occupational therapy assistant.*

ITEM 6. Subrule 138.212(5) is rescinded and the following adopted in lieu thereof:

**138.212(5)** Revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or failure by the licensee to report in writing to the Iowa board of physical and occupational therapy examiners revocation, suspension, or other disciplinary action taken by a licensing authority of another state, territory, or country; or both.

ITEM 7. Subrule 138.212(11) is amended to read as follows:

**138.212(11)** Submission of a false report of continuing education or failure to submit the ~~annual~~ report on continuing education.

**ARC 3380****HEALTH DEPARTMENT[470]****BOARD OF SPEECH PATHOLOGY  
AND AUDIOLOGY EXAMINERS****NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §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 Speech Pathology and Audiology Examiners gives Notice of Intended Action to amend the rules in the IAC relating to licensure of speech pathologists and audiologists (chapter 155). The proposed rule change would eliminate the requirement that the certificate of clinical competence be dated within five years of the application for licensure.

Consideration will be given to written comments concerning the proposed rules received by Peter J. Fox,

## HEALTH DEPARTMENT[470] (cont'd)

Hearing Officer, State Department of Health, Lucas State Office Building, Des Moines, Iowa 50319 not later than 4:30 p.m. December 15, 1982.

The proposed rule is intended to implement Iowa Code section 147.154.

Subrule 155.3(3), paragraph "d", is amended to read as follows:

d. If available, a copy of the certificate of clinical competence from the American Speech-Language-Hearing Association; ~~providing that the certificate is dated within five years of the date of application for licensure.~~ Persons holding the certificate of clinical competence as of January 1, 1977 shall be considered as having fulfilled requirements of paragraphs "b" and "c" for clinical training and supervised experience.

**ARC 3372**

**PUBLIC SAFETY  
DEPARTMENT[680]  
TERMINATION OF NOTICE**

Pursuant to the authority of Iowa Code section 237.3(3), the Department of Public Safety, State Fire Marshal Division, gave Notice of Intended Action to amend chapter 5 of the Iowa Administrative Code by adopting rules necessary to govern fire safety in facilities with child foster care provided by agencies [5.503 to 5.517].

This notice appeared in the December 9, 1981 Iowa Administrative Bulletin as ARC 2532. On January 11, 1982, the Administrative Rules Review Committee voted to request an economic impact statement. Upon a second review of the proposed rules in conjunction with representatives of the Department of Social Services, it was determined that the noticed rules require further review and redrafting. We have not completed the review and therefore give notice of termination of rulemaking.

**ARC 3390**

**PUBLIC SAFETY  
DEPARTMENT[680]  
NOTICE OF INTENDED ACTION**

Twenty-five interested persons, a governmental subdivision, an agency or an association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code §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 §17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 1982 Iowa Acts, chapter 1258, sections 5-16, the Iowa Department of Public Safety

hereby gives Notice of Intended Action to adopt rules creating a new Chapter 17 "Crime Victim Reparation" to establish the administration of the crime victim reparation program and the procedure for filing of claims pursuant to the program.

Any interested persons may make written suggestions or comments on these proposed rules prior to December 15, 1982. Such written materials should be directed to: John Schaffner, Legislative Liaison, Iowa Department of Public Safety, Administrative Services Division, Wallace State Office Building, Des Moines, Iowa 50319. Persons who want to convey their views orally should contact John Schaffner, Legislative Liaison, at (515)281-3211 or in the Administrative Services Division offices on the third floor of the Wallace State Office Building. There will be a public hearing on Wednesday, December 15, 1982, at 10:00 a.m. in the conference room on the third floor of the Wallace State Office Building, west half. Persons may present their views at this public hearing either orally or in writing. Persons who wish to make oral presentations at the public hearing should contact John Schaffner, at least one day prior to the date of the public hearing.

These rules are intended to implement 1982 Iowa Acts, chapter 1258, sections 5-16.

The following new chapter is proposed:

**CHAPTER 17  
CRIME VICTIM REPARATION**

**680—17.1 (69GA, ch1258) Victim reparation intent.** The intent of the Iowa General Assembly in passing the crime victim reparation statute was to provide a program for compensating and assisting innocent victims of violent criminal acts who suffered bodily injury or death as a consequence, and encouraging greater public co-operation and successful apprehension and prosecution of criminal offenders.

**680—17.2 (69GA, ch1258) Administration of victim reparation program.** The administrative services division administers the crime victim reparations statute and all questions, comments, requests for information, or applications for reparation shall be directed to the Administrative Services Division. Requests should be addressed to: Crime Victim Reparation Unit, Administrative Services Division, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, phone (515) 281-5044.

**680—17.3 (69GA, ch1258) Definitions.**

**17.3(1) "Claimant"** means any of the following persons applying for reparation under this Act:

- a. A victim,
- b. A dependent of a victim who has died because of criminally injurious conduct, or
- c. A person authorized to act on behalf of any of the persons listed above.

**17.3(2) "Crime"** means conduct that occurs or is attempted in this state, poses a substantial threat of personal injury or death, and is punishable as a felony, an aggravated misdemeanor, or a serious misdemeanor, or would be so punishable but for the fact that the person engaging in the conduct lacked the capacity to commit the crime under the laws of this state. "Crime" does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, motorcycle, motorized bicycle, train, boat, or aircraft except when the intention is to cause personal injury or death.

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

**17.3(3)** "Dependent" means a person wholly or partially dependent upon a victim for care or support and includes a child of the victim born after the victim's death.

**17.3(4)** "Good faith effort" means an action taken not recklessly or with undue disregard for personal safety.

**17.3(5)** "Income" means net income which is your income less normal deductions for federal withholding tax, state withholding tax, FICA taxes, and contributions to retirement systems.

**17.3(6)** "Reasonable charges" means charges ordinarily charged by the provider of the service to the general public for services of a similar nature.

**17.3(7)** "Reparation" means reimbursement for economic losses incurred as a direct result of injury to or death of the victim, not to exceed \$2,000.00 per victim.

**17.3(8)** "Victim" means a person who suffers personal injury or death as a result of any of the following:

- a. Crime.
- b. Good faith effort of a person attempting to prevent the crime.
- c. The good faith effort of a person to apprehend a person suspected of committing a crime.

**17.3(9)** "Family member" means the spouse, child, stepchild, parent, stepparent, brother, stepbrother, sister, or stepsister of the victim, or the parent or stepparent of the victim's spouse or a brother, stepbrother, sister or stepsister of the victim's spouse.

**17.3(10)** "Guardian" shall mean a person who is entitled by law or legal appointment to care for and manage the person or property, or both, of a child or incompetent.

**17.3(11)** "Incompetent" shall mean a person who is incapable of managing his own affairs, as determined by the department or by a court of competent jurisdiction.

**17.3(12)** "Personal injury" shall mean bodily harm, or extreme mental suffering, and shall include pregnancy of the victim.

**17.3(13)** "Pecuniary loss" shall mean the amount of medical or medical related expense, which may include psychological or psychiatric expenses, and shall include, but not be limited to, eyeglasses, hearing aids, dentures, or any prosthetic devices which were taken, lost, or destroyed during the crime. Pecuniary loss shall also include the amount of medical or medical related expense which may include psychological or psychiatric expenses incurred by any person whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim. Pecuniary loss shall also include the loss of income that the victim has incurred as a direct result of the injury to the extent that the victim has not been or will not be indemnified from any other source. Pecuniary loss also includes nonmedical remedial care and treatment rendered in accordance with a religious method of healing.

**680—17.4 (69GA, ch 1258) Claimant information.** One who wishes to file a claim for reparations may contact the administrative services division at the above address and request applicant information. The information that will be provided will contain a copy of the relevant Iowa Code sections, the Iowa Administrative Code, the forms necessary for filing a claim, and the instructions for completing said forms.

**680—17.5 (69GA, ch 1258) Application for reparation.** The department will consider an application for reparation upon receipt by the department of completed and notarized application form signed by the claimant. An

application will consist of form #CVR—1 (Application for reparation by a victim of a crime, dependent, or legal representative of a victim of a crime).

A claim for reparations shall not be considered valid unless received by the Victim Reparations Unit of the department within 180 days of the date of the crime or within 120 days of the date of the death of the victim.

**680—17.6 (69GA, ch 1258) Qualifications for reparations.** In order to qualify for reparations:

**17.6(1)** The victim must have sustained a personal injury as a result of a crime committed on or after January 1, 1983.

**17.6(2)** The crime must have been reported to the local police department or county sheriff's office within 24 hours of the occurrence of the crime, or within 24 hours of the time the report can be reasonably made.

**17.6(3)** The victim must co-operate with the appropriate law enforcement agencies in the investigation or prosecution of the crime.

**17.6(4)** The victim or claimant must co-operate with the department of public safety in the administration of the Crime Victim Reparation program.

**17.6(5)** The claimant must file a completed application form within the time limit spelled out in 17.5 (69GA, ch 1258).

**680—17.7 (69GA, ch 1258) Burden of proof.** The burden of proof shall be upon the claimant to prove that the victim was an innocent victim of a violent crime and that the victim co-operated in the apprehension and prosecution or attempts to apprehend and prosecute the perpetrator of the crime.

**17.7(1)** The final burden of proof of the authenticity and eligibility of a claim, or any part of a claim, rests with the claimant. When an award cannot be made based upon insufficient verification of the law enforcement agency, medical providers, or employer, the claimant shall be given written notice of the particular deficiencies of verification.

**17.7(2)** Information relating to wages, income and all other sources of revenue as well as questions of dependency must be corroborated by supporting documents such as W-2 forms, income tax returns and any other evidence considered relevant by the department.

**17.7(3)** The claimant may provide as evidence any statement, document, information or matter that the claimant feels is relevant and of such a nature as to afford a fair review of the claim.

**17.7(4)** Information requested by the department shall be supplied by the claimant. If the claimant does not comply within a reasonable period of time, the claim shall be denied in whole or in part as appropriate.

**680—17.8 (69GA, ch 1258) Forms.** These rules require the use of the following forms which are available from the department of public safety.

**17.8(1)** Form CVR-1. Application for reparation.

**17.8(2)** Form CVR-2. Law enforcement incident report. This form is to be used by a law enforcement agency to report information concerning the crime incident to the crime victim reparation unit of the department.

**17.8(3)** Form CVR-3. Employment verification form. This form is to be used by the victim's employer to verify information concerning the victim's income.

**17.8(4)** Form CVR-4. Verification of services. This form is to be used by the service providers of various

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

services to the victim to notify the department of the total cost of the services provided and any reimbursements or payments from other sources.

17.8(5) Form CVR-5. Insurance carriers verification form. This form is to be used by insurance carriers to verify information on the application concerning coverages and reimbursements for expenses incurred in connection with the crime incident.

**680—17.9 (69GA, ch 1258) Reduction of reparations.** Reparations payable under these rules will be reduced by the following items:

17.9(1) Any payment received, or to be received, as a result of the injury or death:

- a. From or on behalf of the person who committed the crime.
- b. From an insurance payment or program, including but not limited to workers' compensation or unemployment compensation.
- c. From public funds.
- d. As an emergency payment as a result of undue hardship.
- e. By any amounts paid directly to a medical provider for medical examination ordered by the commissioner.

17.9(2) Reserved.

**680—17.10 (69GA, ch 1258) Eligible claimants.** The following individuals are eligible to file a claim against the victim reparation program:

1. The victim of a crime.
2. A person responsible for the maintenance of the victim.
3. A legal representative of the victim.
4. The guardian(s) of the dependent(s) of the victim.

**680—17.11 (69GA, ch 1258) Disqualifications.** Reparations are subject to disqualification as follows:

17.11(1) When the bodily injury or death for which a benefit is sought was caused by any of the following.

- a. Consent, provocation, or incitement by the victim.
- b. An act committed by a person living in the same household with the victim, unless a criminal conviction for the act is obtained.
- c. An act committed by a person who is, at the time of the criminal act, a family member, unless a criminal conviction for the act is obtained.
- d. The victim assisting, attempting or committing a criminal act.

17.11(2) If the victim has not co-operated with the appropriate law enforcement agency in the investigation or prosecution of the crime.

17.11(3) If the victim or claimant, or both, have not co-operated with the department in the administration of the crime victim reparation program.

17.11(4) To a dependent, when a victim has already received the maximum reparation allowable through the provisions of these rules.

**680—17.12 (69GA, ch 1258) Medical examination.** The commissioner may require that the victim undergo a medical examination by a physician selected by the department. If reparations are made, the victim shall be responsible for the cost of such medical examination. The department shall be responsible for the cost of the medical examination if the reparation is not made to the victim unless the cost of the examination is payable as a benefit under an insurance policy or subscriber contract covering the victim or the cost is payable by a health maintenance organization. The results of any medical

examination ordered by the commissioner shall be made available to the department.

**680—17.13 (69GA, ch 1258) Emergency award of reparation.** The commissioner may order an emergency award of reparation to the claimant prior to taking action on an application and pending a final decision when it appears the claim is one for which reparation is probable and undue hardship will result to the claimant if immediate payment is not made. The claimant may request in the application that consideration be given for an advance award and provide justification for such award. A decision denying an emergency award shall not be appealable.

17.13(1) The amount of such emergency award shall not exceed five hundred dollars. Any emergency award shall be deducted from the final reparation made to the claimant. If the final award amount is less than the amount of the emergency award, the claimant must repay the excess to the department.

17.13(2) No emergency awards will be made in any situation where the crime was committed by someone who is living in the same household with the victim or was a family member of the victim, unless a conviction for the crime has been obtained.

**680—17.14 (69GA, ch 1258) Tax returns — self-employed individuals.** When a claimant is requesting reparations for loss of income due to personal injury and that individual is self-employed, the claimant must submit with the request for reparation, a certified copy of the latest federal and state income tax returns filed by the victim.

**680—17.15 (69GA, ch 1258) Award of reparation.** The commissioner shall award reparations, not to exceed \$2,000.00, when the commissioner is satisfied that all requirements for reparation have been met.

17.15(1) Losses compensated under these rules include:

- a. In case of personal injury:
  - (1) Pecuniary loss.
  - (2) Reasonable replacement value of clothing that is held for evidentiary purposes not to exceed \$100.00.
- b. In case of death:
  - (1) Pecuniary loss incurred prior to death.
  - (2) Reasonable funeral and burial expenses not to exceed \$1,000.00.
- c. Compensable losses do not include:
  - (1) Pain and suffering.
  - (2) Property loss or damage.
  - (3) Aggregate damages to the victim and to the dependents of the victim exceeding \$2,000.00.

17.15(2) Reserved.

**680—17.16 (69GA, ch 1258) Release of information.** Information filed with the department on form CVR-1 is a public record.

All other information received by the department for the administration of these rules, shall be public record unless deemed confidential pursuant to Iowa Code chapter 68A, or some other provision of law.

**680—17.17 (69GA, ch 1258) Erroneous or fraudulent payments.** The recipient shall be liable for repayment of any payment or overpayment induced by fraud by, or on behalf of the recipient.

The recipient of an erroneous payment or overpayment not induced by fraud who is notified within one year of such payment shall be liable for repayment of such

**PUBLIC SAFETY DEPARTMENT[680] (cont'd)**

erroneous payment or overpayment. However, unless notified within one year of the date reparation is made, the recipient is not liable for an erroneous payment or overpayment not induced by fraud.

**ARC 3395****SOCIAL SERVICES  
DEPARTMENT[770]****AMENDED NOTICE OF INTENDED ACTION**

The Notice of Intended Action published in the September 29, 1982 IAB as ARC 3237 under the authority of Iowa Code sections 217.6 and 234.6 proposing amendments to rules relating to foster care services (chapter 136) is amended by adding notice of oral presentations. The proposed changes move rules relating to assessment of the need for foster care services to the rule on eligibility and establish review committees to evaluate both the initial need for foster care and the ongoing case plan.

Oral presentations may be made by appearing at the following meeting. Written testimony will also be accepted at that time.

Des Moines — December 16, 1982 at 2:00 p.m.  
Des Moines District Office Conference Room  
3619½ Douglas

**NOTICE - USURY**

In accordance with the provisions of 1979 Iowa Acts, Chapter 130, the Superintendent of Banking has determined that the maximum lawful rate of interest provided for in Iowa Code Section 535.2, as amended, shall be:

February 1, 1981 - February 28, 1981	14.75%
March 1, 1981 - March 31, 1981	14.50%
April 1, 1981 - April 30, 1981	15.25%
May 1, 1981 - May 31, 1981	15.00%
June 1, 1981 - June 30, 1981	15.75%
July 1, 1981 - July 31, 1981	16.00%
August 1, 1981 - August 31, 1981	15.50%
September 1, 1981 - September 30, 1981	16.25%
October 1, 1981 - October 31, 1981	17.00%
November 1, 1981 - November 30, 1981	17.25%
December 1, 1981 - December 31, 1981	17.25%
January 1, 1982 - January 31, 1982	15.50%
February 1, 1982 - February 28, 1982	15.75%
March 1, 1982 - March 31, 1982	16.50%
April 1, 1982 - April 30, 1982	16.50%
May 1, 1982 - May 31, 1982	15.75%
June 1, 1982 - June 30, 1982	15.75%
July 1, 1982 - July 31, 1982	15.50%
August 1, 1982 - August 31, 1982	16.25%
September 1, 1982 - September 30, 1982	16.00%
October 1, 1982 - October 31, 1982	15.00%
November 1, 1982 - November 30, 1982	14.25%
December 1, 1982 - December 31, 1982	13.00%



## ARC 3389

## AUDITOR OF STATE[130]

Pursuant to Iowa Code sections 534.10, 534.41(2) and 17A.5(1), the Supervisor of Savings and Loan Associations, under the direction of the Auditor of State, hereby adopts amendments to 130—Chapters 3 and 4. The rules are entitled "Savings Liability—Dividends" and "Mutual Deposits," respectively. As amended the former rule will be simply entitled "Savings Liability".

Notice of Intended Action was published in the IAB on September 29, 1982, as ARC 3247. A public hearing was scheduled for October 21, 1982. There was no response from the public regarding the proposed amendments.

These two rules are related because they both describe various types of savings accounts which may be offered by savings and loan associations, as well as penalties for withdrawal of accounts prior to maturity. Chapter 4 describes the procedure necessary to become a "mutual deposit" association. Mutual deposit associations pay interest on savings accounts whereas mutual share associations pay dividends. Most associations are mutual deposit.

The amendments to these two chapters are designed to bring the language concerning savings accounts up to date with that provided by the Federal Home Loan Bank Board for federally chartered associations. It is also designed to be flexible for future changes, in light of the continued deregulation of savings instruments and interest rates at the national level. During the period in which these amendments were under Notice, the United States Congress passed Public Law 97-320 which, among other things, authorized a new deposit account which is designed to become directly competitive with investments in money market mutual funds. These amendments as adopted include a provision for this new type of flexible savings account which will be offered to the public on or before December 15, 1982.

Changes from Notice of Intended Action are as follows:

The first sentence of rule 130—3.1(534) is changed so that the classification of types of savings accounts is authorized by the bylaws of the association and not the articles of incorporation.

Subrule 3.1(6) is changed from the Notice to provide for the new type of savings account recently authorized by the United States Congress. The limitation on the account will be the same as that provided for federally chartered associations.

Subrule 3.1(7) is changed from the Notice to allow for other types of savings accounts which are not described in the rules, as long as they are approved by the Federal Savings and Loan Insurance Corporation.

Subrule 3.1(8) is the same as under Notice but is renumbered.

Subrule 3.1(9) is renumbered from the Notice and is changed to clarify that day-in or day-out accounts, which is the type of account recently authorized by Congress, shall not have penalty for early withdrawal.

The amendments as adopted shall become effective on November 5, 1982, pursuant to Iowa Code section 17A.5(2)"b"(2), so that savings and loan associations will be able to begin offering the new money market savings instrument on the same day that federally chartered associations will be able to. This emergency implementation will benefit the public by allowing them to choose from both state and federally chartered savings and loan

associations when the new accounts become effective, to achieve the best rate of return on their money invested.

Although the amendments shall become effective on November 5, 1982, a condition precedent to this emergency implementation is that the new money market account may not be offered to the public until a date of issuance is promulgated by the Federal Home Loan Bank (mandated to be on or before December 15, 1982) through regulations.

These adopted rules are intended to implement Iowa Code sections 534.10, 534.41(2) and 17A.5(1).

ITEM 1. The title for chapter 3 of the rules for savings and loan associations is amended as follows:

CHAPTER 3  
SAVINGS LIABILITY — DIVIDENDS

ITEM 2. Rule 130—3.1(534) is amended as follows:

**130—3.1(534) Classes of savings.** In addition to regular savings share accounts, an An association may, if its articles of incorporation bylaws permit and by resolution of its board of directors, classify savings according to the character, amount or duration thereof, or regularity of additions thereto. For this purpose, the classifications are defined.

**3.1(1) Bonus accounts.** Under the bonus arrangement, the association may agree, by issuance of a bonus security certificate, to pay an extra dividend or extra interest at a specified rate in addition to the regular rate: *paid on those accounts.*

Bonus accounts may be:

Fixed balance accounts of one thousand dollars or a greater amount which is an integral multiple of one thousand dollars, maturing in thirty-six months with the minimum balance, minimum additions and minimum and maximum term agreed upon by the saver and the association, or

Accounts on a monthly payment basis, such monthly payment to be set forth in a bonus agreement, for a period of not less than thirty-six months nor more than ninety-six months agreed upon between the saver and the association.

a. Regular dividends or interest shall be distributed or paid as of the normal distribution dates and the bonus amount upon completion of the agreed upon maturity. In the event that the account is withdrawn prior to the maturity date specified, no bonus may be paid nor may a penalty be assessed. The association shall, on each regular dividend or interest payment date, make appropriate debits and credits to a "Reserve for Bonus" which shall be maintained as long as bonus accounts are outstanding.

b. The bonus security form to be used shall be submitted to the supervisor for approval prior to initiation of any bonus plan.

c. Bonus certificates, issued under any plan prior to the effective date of this regulation, must be redeemed upon their date of maturity, which date shall, in no event, be later than July 1, 1968. Such The certificates may be replaced by a regular savings share account or a plan conforming to one of the classes of savings set forth in this rule.

**3.1(2) Variable accounts.** The An association may offer savings accounts in either single payment plan, bonus plan, which pay variable rates of interest, plan or otherwise with terms of not less than sixty days or more than ten years. Full disclosure shall be made to the saver de-

## AUDITOR OF STATE[130] (cont'd)

scribing how the interest rate will be periodically determined.

**3.1(3)** Ninety-day-notice accounts. The term "notice account" means any form of withdrawable account evidenced by an account book or certificate containing a requirement that the holder of the account give the association written notice of at least ninety days prior to making any withdrawal from ~~such the~~ account, except as provided in this rule. An association may provide that ~~such the~~ notice prior to withdrawal will not be required at the end of a dividend or interest period or within ten days thereafter in connection with the withdrawal of funds which have remained in the association for at least ninety days. In the event of any other withdrawal from ~~such the~~ account prior to the expiration of ~~such the~~ notice period, the holder of ~~such the~~ account shall not be entitled to receive accrued and unpaid earnings on the amount withdrawn for the period of time such funds remained in the association since the last date on which the association regularly distributed earnings on notice accounts.

**3.1(4)** Fixed rate, fixed term savings accounts described in rule 4.2(534).

**3.1(5)** Regular savings (passbook) accounts.

**3.1(6)** Savings accounts which are directly equivalent to and competitive with money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940. The limitations for this type of account shall be those which are imposed by the Federal Savings and Loan Insurance Corporation upon insured associations.

**3.1(7)** Other accounts. An association may offer other types of savings accounts not described in this rule, which are authorized by the Federal Savings and Loan Insurance Corporation for insured associations.

**3.1(8)** Disclosure. In addition to any disclosure requirements outlined above, a savings account must meet the disclosure requirements of subrule 4.2(3).

**3.1(9)** Withdrawal penalty. Unless a penalty for early withdrawal is otherwise specified in this rule, except for a passbook or other day-in or day-out account, an association shall provide for a penalty described in subrule 4.2(4).

ITEM 3. Subrule 4.1(2) is amended as follows:

**4.1(2)** Procedure to elect. In order to elect to become ~~such a~~ "mutual deposit association or institution," a state chartered association shall by action of its members at a regular annual meeting or a specially called meeting for that purpose amend its articles of incorporation so as to convert to a mutual deposit type institution or association by adopting articles of incorporation which are substantially similar to those which are ~~attached hereto as addendum "A" and by this reference made a part hereof and especially which shall contain the provision of Articles 5, 7, 17, 18, 20, 21, 22 and 23 of said Model Articles of Incorporation.~~ available in the office of the supervisor of savings and loan associations. The associations shall ~~further~~ obtain the formal approval of the restated articles of incorporation and bylaws of the supervisor. ~~and the executive council of the state of Iowa.~~

ITEM 4. Subrule 4.2(2) is amended as follows:

**4.2(2)** Limitations. In issuing certificates evidencing

fixed-rate, fixed-term accounts pursuant to the approval contained in 4.2(1), no ~~insured institution association~~ shall:

a. Provide for any forfeiture for breach of condition on the part of any holder, other than loss of interest, partial loss of interest and principal or partial loss of principal for the term of the fixed-rate, fixed-term account or other specified time period; in any event no forfeiture imposed on any account holder by an insured association shall be greater than that specified by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation;

b. Issue any negotiable form of certificate ~~that provides for membership in the association, or one subject to redemption, evidencing a fixed-rate, fixed-term account unless its face amount is one hundred thousand dollars or more; the association discloses to the saver all terms and conditions of the redemption;~~

c. Issue any marketable certificate of deposit, except where it has a single fixed term of not less than fourteen days or more than ten years and its face amount is not less than one hundred thousand dollars; this certificate is also subject to restrictions of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation which are placed on federal associations;

d. Deny any member the opportunity to invest at the same rate offered to any other member at that time on the same classification of fixed-rate, fixed-term account;

e. Accept any fixed-rate, fixed-term account for a term of less than ninety days or more than ten years; provided, that the terms of public funds accounts and accounts of one hundred thousand dollars or more shall be fourteen days or more and that any fixed-rate, fixed-term account may be renewed, at the option of the institution, for successive periods not exceeding ten years for each renewal;

f. Provide for withdrawal from any fixed-rate, fixed-term account prior to the expiration of the fixed-term, except as provided in 4.2(4); or

g. Issue any form of certificate evidencing a fixed-rate, fixed-term account unless the institution has first (1) obtained a written opinion by its legal counsel that such form of certificate complies with the requirements of applicable law and regulations and the institution's articles of incorporation and bylaws, which opinion shall be retained by the institution so long as it continues to issue certificates in such form, and (2) submitted a copy of such form of certificate, together with a copy of such legal opinion, to the supervisor of savings and loan associations, office of the auditor of state. Provided, that such legal opinion need not be obtained if the institution uses a form of certificate which has already been approved by the Federal Savings and Loan Insurance Corporation for the use by state-chartered institutions.

ITEM 5. The Model Articles of Incorporation, identified as Addendum A, following chapter 4 are stricken.

[Filed emergency after Notice 11/5/82, effective 11/5/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3369

### EMPLOYMENT SECURITY[370]

(JOB SERVICE)

Pursuant to the authority of Iowa Code sections 96.11(1) and 17A.3, the Iowa Department of Job Service hereby emergency adopts and implements rules to amend Chapter 4, "Claims and Benefits", Iowa Administrative Code.

This emergency rule provides that the long-term unemployed claimant who has exhausted all rights to regular job insurance payments may under certain economic conditions, qualify for partial or total federally funded job insurance payments. The Secretary of Labor by regulation and publications requires a more stringent systematic and sustained effort by the claimant in search for work because of the federal funding of both the payments and the administrative costs.

Therefore, in compliance with Iowa Code section 17A.4(2), the department finds that public notice and participation are impracticable for the reasons stated above.

The department also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this rule thirty-five days after publication should be waived and the rule be made effective upon filing with the Administrative Rules Coordinator on October 25, 1982, for the benefit of the public.

The Iowa Department of Job Service adopted this rule October 25, 1982. It is effective October 25, 1982.

This rule is intended to implement Public Law 96-499, Unemployment Insurance Program Letter 14-81 and General Administration Letter 22-81.

Amend subrule 4.22(1), paragraph "c", subparagraph (2), by striking lines 8 and 9 as follows:

~~Registering with the claimant's union hiring or placement facility.~~

~~Registering with a placement facility of the claimant's professional organization.~~

Further, amend subrule 4.22(1), paragraph "c", subparagraph (3), as follows:

(3) No claimant, however, shall be denied benefits solely on the ground that he (she) has failed or refused to register with a private employment agency or at any other placement facility which charges the job-seeker a fee for its services. *However, a claimant may count as one of the work contacts required for the week an in-person contact with a private employment agency.*

Further, amend subrule 4.22(1), paragraph "g" to read as follows:

g. Union and professional employees. Members of unions or professional organizations who normally obtain their employment through the union or professional organizations are considered as diligently and actively seeking work, if they maintain active contact with the union's business agent or with the placement officer in the professional organization. A paid-up membership must be maintained if this is a requirement for placement service. The claimant must meet all of these requirements to be considered as available for work. The trade, profession or union to which the claimant belongs must have an active hiring hall or placement facility, and such trade, profession or union must be the source customarily used by employers in filling their job openings. *Registering with the claimant's union hiring or placement*

*facility will be sufficient except that whenever all benefit rights to regular benefits are exhausted and Iowa is in an extended benefit period or similar program such as the federal supplemental compensation program, members must also actively search for work and mere registration at a union or reporting to union hiring hall or registration with a placement facility of the claimant's professional organization will not satisfy the extended benefit systematic and sustained effort to find work and additional work contacts must be made.*

Further, amend subrule 4.22(1) by adding new paragraphs "z" and "aa" to read as follows:

z. Reverse referral. A reverse referral is defined as an employer hiring only through job service of Iowa and all applicants for employment with the employer are referred to job service of Iowa. A claimant may use job service of Iowa as one work contact during a week if the claimant has inquired at the employer's place of business and the employer has stated that all applications for work are handled by job service. The job service office must be contacted in person by the claimant to utilize this reverse referral registration job contact.

aa. Job search assistance. Job search assistance classes which are sponsored by job service of Iowa and attended by the claimant during a week will be counted as one of the claimant's work search contacts for that week.

This rule is intended to implement Public Law 96-499, Unemployment Insurance Program Letter 14-81 and General Administration Letter 22-81.

[Filed emergency 10/25/82, effective 10/25/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3376

### SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 218.4, rules of the Department of Social Services appearing in the IAC relating to adult correctional institutions (Chapter 16) are hereby amended. This rule changes the criteria for approving publications that will be allowed in the institution.

The Department of Social Services finds that notice and public participation are impracticable. Upon review of this rule the department has determined that this rule is unnecessarily restrictive and denies access to publications which were previously approved. The department's intent in promulgating the rule was not to be so restrictive and in order for inmates to receive publications timely that are now being sent to the institution, there is not time for this rule to go through the regular process. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

## SOCIAL SERVICES DEPARTMENT[770] (cont'd)

The Department of Social Services finds that this rule removes a restriction on the public. This change will allow approval of publications which were previously approved and to which inmates already subscribe. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Social Services adopted this rule October 29, 1982.

This rule is intended to implement Iowa Code section 218.4.

This rule shall become effective immediately upon filing.

Subrule 16.6(4), paragraph "b", is amended to read as follows:

b. Contains material portraying bestiality, sadomasochism, child nudity, or child sexual activity, or ~~adult sexual activity~~ *photographic portrayal of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, or male erection.*

[Filed emergency 10/29/82, effective 10/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

**ARC 3374****SOCIAL SERVICES  
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 41) are hereby amended. This change provides for determining eligibility under the one hundred fifty percent test retrospectively.

The Department of Social Services finds that notice and public participation are impracticable and contrary to the public interest. The current rule provides for cancellation of a case when income exceeds the one hundred fifty percent standard. However, when the cancellation is expected to last only one month, it is a hardship on the client to complete the forms required for application and to risk having only a partial month's payment upon approval because of the seven-day delay in eligibility. This rule change will allow the department to suspend the case for one month rather than cancel it. This rule needs to be effective immediately in order to suspend, rather than cancel cases. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that this rule confers a benefit on the public. Clients affected by this rule will avoid having to reapply for assistance because they can be suspended instead. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Social Services adopted this rule October 28, 1982.

This rule is intended to implement Iowa Code section 239.5.

This rule shall become effective November 1, 1982.

Subrule 41.7(9), paragraph "b", subparagraph (2), is amended to read as follows:

(2) When a change in eligibility factors occurs, the local office shall prospectively compute eligibility based on the change, effective no later than the month following the month the change occurred. If eligibility continues, no action is taken. If ineligibility exists, assistance shall be canceled or suspended. Continuing eligibility under the one hundred fifty percent eligibility test, defined in 770—41.7(239), shall be computed prospectively *and retroactively*.

[Filed emergency 10/29/82, effective 11/1/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

**ARC 3375****SOCIAL SERVICES  
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 239.18, rules of the Department of Social Services appearing in the IAC relating to aid to dependent children (Chapter 41) are hereby amended. This rule provides for the payment of special needs prospectively.

The Department of Social Services finds that notice and public participation are impracticable and contrary to the public interest. The monthly reporting rules which became effective September 1 would require payment for special needs to be made retrospectively and this needs to be corrected sooner than it could through the regular rulemaking process. The retrospective payment could cause a two-month delay in receipt of the payment and this could cause a hardship for the recipient. Therefore, this rule is filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that this rule confers a benefit on the public. By allowing for a more timely payment of special needs, it alleviates the hardship that could result from a retrospective payment. Therefore, this rule is filed pursuant to Iowa Code section 17A.5(2)"b"(2).

The Council on Social Services adopted this rule October 28, 1982.

This rule is intended to implement Iowa Code section 239.5.

This rule shall become effective November 1, 1982.

Subrule 41.7(9) is amended by adding a new paragraph:

j. Payment for a special need as defined in 41.8(3) shall be made when documentation of the special need is received by the local office. When the special need continues, it shall be included, prospectively, in each month's

## SOCIAL SERVICES DEPARTMENT[770] (cont'd)

aid-to-dependent-children grant thereafter for as long as the special need exists.

[Filed emergency 10/29/82, effective 11/1/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

**ARC 3394****SOCIAL SERVICES  
DEPARTMENT[770]**

Pursuant to the authority of Iowa Code sections 217.6 and 234.6, rules of the Department of Social Services appearing in the IAC relating to homemaker-home health aide services (chapter 144) and chore service (149) are hereby amended. These chapters are being rescinded as these programs have been transferred to the Health Department.

The Department of Social Services finds that notice and public participation are unnecessary. This change is a technical change necessitated by the transfer of the homemaker-home health aide program and the chore services program to the Health Department on July 1, 1982. Therefore, these rules are filed pursuant to Iowa Code section 17A.4(2).

The Department of Social Services finds that this change confers a benefit on the public. By eliminating these chapters, we will avoid confusion that may arise as to which department offers the services. Therefore, these rules are filed pursuant to Iowa Code section 17A.5(2) "b"(2).

The Council on Social Services adopted these rules October 28, 1982.

These rules are intended to implement 1982 Iowa Acts chapter 1260, section 103.

This rule shall become effective immediately upon filing.

ITEM 1. Rescind 770—chapter 144.

ITEM 2. Rescind 770—chapter 149.

[Filed emergency 11/5/82, effective 11/5/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3393

## AGING, COMMISSION ON THE[20]

Pursuant to the authority of Iowa Code section 17A.3, the Iowa Commission on the Aging hereby adopts amended rule 20—4.2(249B), "Long term care ombudsman program" [Iowa Administrative Code].

The commissioners adopted the amended rules at their regular meeting on September 17, 1982 after considering oral comments submitted at four public hearings and comments received in writing.

The rules were published as Notice of Intended Action in the Iowa Administrative Bulletin on July 21, 1982 as ARC 3074.

This rule provides information on the scope and responsibilities of the long-term care ombudsman program, including administration of the care review committee program, resolution of complaints received from long-term care facility residents and residents of supportive living arrangements. The confidentiality of information collected in that process and a reporting system are also outlined.

Subrules 4.2(1) to 4.2(5) were reordered and modified, and a new subrule on definitions and responsibilities was added. Greater detail was added to subrule 4.2(5) to clarify access requirements to facilities and patient records, to 4.2(6) to clarify the reporting requirements, and to 4.2(7) to clarify confidentiality and disclosure requirements.

These rules implement Iowa Code chapter 249B and become effective December 29, 1982.

ITEM 1. Subrule 4.2(1) is amended to read as follows:

**4.2(1) General rule.** The Iowa Commission on the aging state agency shall operate the a statewide long-term care ombudsman program directly in co-operation with appropriate state and local agencies such as the office of the state citizens' aide/ombudsman, the state department of health, and the area agencies on aging. The program shall include the administration of the care review committee system (Iowa Code section 135C.25).

ITEM 2. Subrule 4.2(2) is renumbered to be subrule 4.2(3) and new wording is inserted as subrule 4.2(2) as follows:

**4.2(2) Definitions.**

The following definitions apply to this rule:

a. "Administrative action" means any action or decision made by an owner, employee or agent of a long-term care facility, or supportive living arrangement, or by a government agency which affects the provision of services to residents covered by the ombudsman program.

b. "Supportive living arrangement" means any category of institution, foster home, or group living arrangement that is regulated by the state in which recipients of supplemental security income benefits may reside.

ITEM 3. Subrule 4.2(3) is renumbered to be subrule 4.2(5) and renumbered subrule 4.2(3) is amended to read as follows:

**4.2(2) 4.2(3) Full-time specialist.** Program administration. The executive director shall employ a full-time professional staff an individual (hereinafter called the ombudsman) to operate administer the long-term care ombudsman program in accordance with the requirements of the Act; subject to the availability of funds.

ITEM 4. Subrule 4.2(4) is renumbered to be 4.2(7), and a new 4.2(4) inserted in lieu thereof:

**4.2(4) Responsibilities of the ombudsman.** The ombudsman shall have the following responsibilities:

a. To research and pursue the resolution of complaints about administrative actions that may adversely affect the health, safety/welfare or rights of older persons residing in long-term care facilities or who may reside in supportive living arrangements.

b. To monitor the development and implementation of federal, state and local laws, regulations and policies that relate to long-term care facilities in the state.

c. To provide information to the public and to state and local agencies about problems of older persons in long-term care facilities.

d. To train volunteers.

e. To assist in the development of organizations to participate in the ombudsman program.

f. To administer the care review committee program described in Iowa Code section 135C.25.

(1) Care review committees shall consist of community volunteers appointed by the ombudsman.

(2) Care review committee members will serve as advocates who may provide services such as consultation, problem-solving, reviewing complaints and serving as advocates on behalf of institutionalized persons in the resolution of complaints.

(3) Care review committee members will refer complaints to the ombudsman or the state department of health as outlined in Iowa Code sections 135C.37 and 470—58.27, Iowa administrative code.

ITEM 5. Subrule 4.2(5) is renumbered to be 4.2(6) and renumbered 4.2(5) is amended as follows:

**4.2(3) 4.2(5) Access requirements.** The long-term care specialist and designee ombudsman, in response to complaints, will be given appropriate private shall have access to long-term care facilities and supportive living arrangements, private access to residents of long-term care facilities and supportive living arrangements, and to resident's the personal and medical records of residents on whose behalf a complaint is being pursued.

a. The ombudsman may enter any long-term care facility or supportive living arrangement without prior notice. After notifying the person in charge of the facility of his or her presence, the ombudsman may communicate privately and without restriction with any resident who consents to the communication.

b. All medical and personal records maintained by a facility shall be confidential and shall not be available for review and copying to the ombudsman except under the following circumstances:

(1) The information is requested by the ombudsman who provides the facility with a written waiver signed by the person about whom the information is sought, the person's guardian, conservator, legal representative or responsible party, as defined under department of health subrule 58.1(19), Iowa administrative code. Each signed consent shall designate specifically the person or agency to whom the information is to be sent, and the information shall be sent only to that person or agency.

(2) The information is sought by a court order.

c. The ombudsman may review and copy any files or other records of a long-term care facility, or of any government agency pertaining to the care of residents that may be considered necessary by the ombudsman for the resolution of a complaint.

d. The ombudsman shall not observe the private living area of any resident who objects to the observation.

## AGING, COMMISSION ON[20] (cont'd)

e. The ombudsman may request from any government agency or area agency on aging, co-operation, assistance and data that will enable the ombudsman to execute any of his or her functions, duties and powers under the Older Americans Act.

f. The facility staff member in charge may refuse or terminate an ombudsman's visit with a resident only when written documentation is provided to the ombudsman that the visit is a threat to the health and safety of the resident. The information must be documented by the resident's physician in the resident's medical record.

(1) An exception may occur when the resident, with full information related to her or his medical condition, waives medical advice and chooses to meet with the ombudsman.

(2) The facility may request that the resident sign a written statement in which the resident assumes responsibility for his or her action. If the person is not legally competent to sign the statement, the waiver may be signed by a legal representative or responsible party, as defined in department of health subrule 58.1(19), Iowa administrative code.

ITEM 6. Amend renumbered subrule 4.2(6) as follows:  
~~4.2(5)~~ **4.2(6) Reporting system.** The executive director ombudsman must establish maintain a statewide uniform reporting system to collect and analyze information on complaints and conditions in long-term care facilities in accordance with requirements of the Act. Information provided by the department of health shall be used in this system.

a. The complaint documentation and reporting system shall include:

- (1) The source of the complaint;
- (2) Name, location and type of facility;
- (3) Facility licensure and certification status;
- (4) Description of the problem;
- (5) Billing status of the resident;
- (6) Method by which the complaint was received; and,
- (7) Description of follow-up activities.

b. The ombudsman shall prepare an annual report analyzing the complaint statistics collected and submit this report to AoA and the Iowa departments of health and social services (45 CFR 1321.43(f), 1981).

ITEM 7. Amend renumbered subrule 4.2(7) as follows:  
~~4.2(4)~~ **4.2(7) Confidentiality and disclosure.** The executive director shall establish procedures to protect the confidentiality of resident's records and files which meet the requirements of 45 CFR 1321.43(e) (1981) and subrule 2.9(1). The complaint files maintained by the long-term care ombudsman program shall be maintained as confidential information and may not be disclosed unless the ombudsman authorizes disclosure.

a. The ombudsman shall not disclose the identity of any complainant or resident, or any identifying information obtained from a resident's personal or medical records unless:

- (1) The complainant or resident, or the legal representative of either, consents in writing to the disclosure and specifies to whom the information may be disclosed; or
- (2) A court orders the disclosure.

b. The ombudsman may use materials in the files for the preparation and disclosure of statistical, case study and other pertinent reports provided that the means of discovering the identity of particular persons is not disclosed.

c. When the ombudsman encounters a deficiency that pertains to compliance with state or federal laws or

regulations, the ombudsman may make referrals directly to the appropriate agency for action.

d. When the research conducted by the ombudsman discloses facts that may warrant the institution of civil proceedings against an offender, the matter may be referred to the agency with authority to institute proceedings.

e. When the research conducted by the ombudsman reveals information relative to the misconduct or breach of duty of any officer or employee of a facility, supportive living arrangement or government agency, the ombudsman may refer the matter to the appropriate authorities for any necessary action.

f. The agency or authority to which a referral has been made shall report to the ombudsman all follow-up activities within thirty days and every thirty days thereafter until final action on each referral. The ombudsman shall maintain records and may make disclosures that may be necessary to resolve the matter.

[Filed 11/5/82, effective 12/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3388

## AUDITOR OF STATE[130]

Pursuant to the authority of Iowa Code sections 534.41(2) and 17A.5(1), the Supervisor of Savings and Loan Associations, under the direction of the Auditor of State, hereby adopts amendments to 130—Chapter 2. The chapter is entitled "Incorporation and Organization" and provides guidelines for savings and loan associations to follow when desiring to establish a new branch office.

Notice of Intended Action was published as ARC 3246 on September 29, 1982. An oral hearing was scheduled to be held on October 21, 1982. There was no response either in writing or in person from the public regarding the notice to amend these rules.

The 1982 Session of the Sixty-ninth General Assembly [chapter 1253] passed legislation which significantly changed laws affecting savings and loan associations. One of the changes includes the manner under which new associations are approved for incorporation. Prior to the passing of the new law, the Executive Council of Iowa was required to approve all new incorporations as well as other general amendments to corporate Articles of Incorporation. Chapter 2 likewise required Executive Council approval prior to the establishment of a new branch.

The adopted amendments follow the recent legislative intent to shift the burden of this approval to the Supervisor of Savings and Loan Associations. The rule as amended will also state that if any decision of the supervisor is challenged, or if a person requests an oral hearing on a branch application, the Auditor of State or his designee shall make the final decision.

The amendments to these rules shall become effective on December 29, 1982, pursuant to section 17A.5(2). The adopted amendments are unchanged from those proposed under Notice.

## AUDITOR OF STATE[130] (cont'd)

ITEM 1. Rule 130—2.2(534) is amended as follows:

**130—2.2(534) Eligibility.** No application will be considered if at the date on which it is filed:

2.2(1) The association has not been in operation for at least ~~three~~ *one* years;

2.2(2) The association has on file any other application for permission to establish a branch office with respect to which action by the supervisor, ~~or auditor of state or the state executive council~~ is pending;

2.2(3) The association does not submit assurance that the proposed branch office will open within eighteen months of the date of *final* approval. ~~of amendment to the articles and bylaws by the state executive council.~~

ITEM 2. Rule 130—2.5(534) is amended as follows:

**130—2.5(534) Evaluation of applications.** A certified copy of the association's board of directors' resolution authorizing application, the completed "Application for Permission to Establish a Branch Office" and the proposed annual budget will be submitted by the association to the office of the auditor of state, savings and loan division. The ~~auditor of state and the supervisor are~~ *is* charged with the preliminary evaluation of the application and supporting data and may request further information as may be desirable in particular cases. ~~They~~ *The* supervisor will have thirty days from date of receipt of all required or requested information in which to evaluate the application.

ITEM 3. Rule 130—2.6(534) is amended as follows:

**130—2.6(534) Amendment of articles and bylaws.** If, upon evaluation of the information presented, the ~~auditor of state and the supervisor approve~~ *gives preliminary approval to* the application, ~~they~~ *the supervisor* will give written notice to the association to proceed with amendment of the articles of incorporation and bylaws of the association. The articles are to be amended ~~as provided in section 534.3(3) "g" of the Code~~ *by resolution of the members* and the bylaws by resolution of the board of directors. Both amendments are subject to approval of the supervisor as to *general* form and must be approved by the ~~state executive council attorney general as to legal form.~~ The amendments must indicate the location for the specific branch office intended. An amendment cannot be made giving the association broad powers to branch.

Upon approval of the members of the amendment to the articles of incorporation and upon approval of the amendment to the bylaws by the board of directors, four certified copies of each of the amendments shall be filed with the supervisor.

ITEM 4. Rescind rule 130—2.8(534) and insert in lieu thereof the following:

**130—2.8(534) Public comment - final approval.** Following receipt of all documentation from the association, and after the twenty-day period for communications allowed in the notice, a final review of the branch application and the public comments received will be made by the supervisor. The supervisor shall disapprove the application based upon any of the following:

2.8(1) The application is inconsistent with applicable statutes or rules;

2.8(2) The application does not contain all required or requested information;

2.8(3) The plan is inequitable to a class of members or shareholders;

2.8(4) The establishment of the proposed branch office would cause undue injury to existing local thrift and home financing institutions;

2.8(5) The establishment of the proposed branch will not provide a benefit to the market area to be served.

If the application is approved by the supervisor, the supervisor shall issue a certification indicating the approval. Review of any decision made by the supervisor may be heard by the auditor of state or the auditor of state's designee. If any person requests an oral hearing on the matter, he or she should notify the supervisor in writing within the twenty-day communication period. The oral presentations will be heard by the auditor of state or the auditor of state's designee. A final decision shall be issued within thirty days following the hearing.

[Filed 11/5/82, effective 12/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3386

## CITIZENS' AIDE[210]

(OMBUDSMAN)

Pursuant to the authority of Iowa Code section 601G.9, and the 1982 Iowa Acts, chapter 1026, the Citizens' Aide/Ombudsman's office adopts amendments to subrules 2.3(2), 5.2(3), rule 5.3(601G), and subrule 5.4(2) of the Iowa Administrative Code.

The rules were published as Notice of Intended Action in the IAB on June 23, 1982 as ARC 3001. No hearing was scheduled nor were any written or oral suggestions or comments received regarding these proposed rules.

These rules specify how the office of Citizens' Aide/Ombudsman will administer its responsibilities pertaining to access of confidential information provided for by the 1982 Iowa Acts, chapter 1026. In addition the rules delete the requirement for the Citizens' Aide/Ombudsman to notify the complainant in writing when a decision not to investigate is made. The rules correct a typographical error found in the present rules. Also, the intention of the Citizens' Aide/Ombudsman to release information previously provided to the office by a government official to that official or his or her counsel, upon request, is clarified. The only change from the published Notice of Intended Action is found in 5.3(601G) and is a minor grammatical error.

These rules implement Iowa Code chapter 601G as amended by the 1982 Iowa Acts, chapter 1026.

These rules will become effective on December 29, 1982.

ITEM 1. Subrule 2.3(2) paragraphs "a" and "b" is amended to read as follows:

a. If a decision is made not to investigate, the complainant shall be notified, ~~in writing, within sixty days from the date of receipt of the complaint and reasons shall be~~



## CITIZENS' AIDE[210] (cont'd)

given for the decision informed of the reasons for the decision.

b. ~~If a decision is made to investigate, the complainant shall be notified, in writing, without delay. The citizens' aide/ombudsman shall notify the agency complained of within sixty days of the receipt of the complaint of that decision. If a decision is made to investigate, the complainant and the agency shall be notified of the decision.~~

ITEM 2. Subrule 5.2(3) is amended to read as follows:

**5.2(3)** The citizens' aide/ombudsman has no affirmative duty to inform one providing information that it can be held as private. If a request is made that information be held as private, the citizens' aide/ombudsman will determine, under his/her authority in Iowa Code section 601G.8, whether he/she will respect this request. If a determination is made to hold certain information as private by the citizens' aide/ombudsman, such information may later become public if a report made pursuant to ~~2.6(2)~~ 2.5(2) is issued.

ITEM 3. Rule 210—5.3(601G) is amended to read as follows:

**210—5.3(601G) Confidential information.** Confidential information is any information defined as confidential by state or federal law. Confidential information cannot be released by the citizens' aide/ombudsman except to those persons having lawful access. *The citizens' aide/ombudsman is subject to the same policies and penalties regarding the confidentiality of the information as an employee of the agency that provided the information.* The citizens' aide/ombudsman case closings, internal notes, memoranda and correspondence shall be considered confidential information pursuant to Iowa Code section 601G.8.

ITEM 4. Subrule 5.4(2) is amended to read as follows:

**5.4(2)** All information that a citizen has provided to the citizens' aide/ombudsman or that he/she has previously received shall be released to a citizen or his/her counsel. *All information that a government official has provided to the citizens' aide/ombudsman or that he/she has previously released shall be released to the official or his/her counsel.*

[Filed 11/5/82, effective 12/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3382

### CONSERVATION COMMISSION[290]

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission, at their regular meeting on November 4, 1982, adopted the following amendments to Chapter 23, "Wildlife Habitat Stamp Revenue Cost-Sharing with Local Entities", Iowa Administrative Code.

Notice of Intended Action was published in IAB 5, September 1, 1982, as ARC 3159.

These rules give the procedures for county conservation boards and other public agencies to obtain cost-sharing assistance for wildlife habitat projects.

A change from the original notice was made in 290—23.10(110) to make the date more specific and to allow for flexibility.

These rules implement Iowa Code section 110.3, and shall become effective January 1, 1983.

ITEM 1. Rule 290—23.4(110) is amended to read as follows:

**290—23.4(110) Project limitations.** Because of administrative costs, no application for assistance totaling less than ~~\$300~~ 750 (total project cost—~~\$400~~ 1,000) will be considered.

ITEM 2. Rule 290—23.10(110) is amended to read as follows:

**290—23.10(110) Timely commencement of projects.** Grant recipients are expected to carry out their projects in an expeditious manner. Projects for which grants are approved shall be commenced within six months of the ~~stated initiation date as shown by the grant request date upon which the grantee is notified that the project is approved, or at another date agreed upon by both parties.~~ Failure to do so may be cause for termination of the project and cancellation of the grant by the commission.

[Filed 11/5/82, effective 1/1/83]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3383

### CONSERVATION COMMISSION[290]

Pursuant to the authority of Iowa Code section 107.24 and section 427.1 as amended by 1982 Iowa Acts, chapter 1247, section 2, the State Conservation Commission, at their regular meeting on November 4, 1982, adopted the following Chapter 25, "Certification of Land as Native Prairie and Wildlife Habitat", Iowa Administrative Code.

Notice of Intended Action was published in IAB, September 1, 1982, as ARC 3160.

These rules provide the method whereby landowners can have certain lands certified as native prairie or wildlife habitat, thus making them tax exempt.

Two changes were made from the Notice of Intended Action, in subrule 25.2(2) the word "economic" was added and in rule 25.3, the word "thereon" was deleted.

These rules implement Iowa Code section 427.1 as amended by 1982 Iowa Acts, chapter 1247, section 2, unnumbered new subsections 2 and 3, and shall become effective January 1, 1983.

#### CHAPTER 25

#### CERTIFICATION OF LAND AS NATIVE PRAIRIE OR WILDLIFE HABITAT

**290—25.1(427) Purpose.** The purpose of this rule is to define lands which qualify for tax exemptions as "native prairie" or "wildlife habitat", and to provide procedures whereby owners may have them certified as such.

**290—25.2(427) Definitions.** Before lands will be certified as either "native prairie" or "wildlife habitat" under

CONSERVATION COMMISSION[290] (cont'd)

Iowa Code section 427.1 as amended by 1982 Iowa Acts, chapter 1247, section 2, unnumbered new subsections 2 and 3, they must meet the criteria of the following definitions:

25.2(1) "Native prairie" is defined as those lands which have never been cultivated, are unimproved, and are natural or restored grasslands wherein at least fifty percent of the plant canopy is a mixture of grass and forb species which were found originally on Iowa's prairie lands.

25.2(2) "Wildlife habitat" is defined as those parcels of land of two acres or less which are devoted exclusively for use as habitat for wildlife and are protected from all other economic uses of any kind.

290—25.3(427) **Restrictions.** Lands classified as native prairie or wildlife habitat under this rule shall not be used for economic gain of any type including the storage of equipment, machinery, or crops nor shall there be any buildings, used or unused, on this property.

290—25.4(427) **Maintenance.** Maintenance activities, including burning, chemical treatment, or selective brush removal, may be performed on native prairies if approved by the county conservation board or by the state conservation commission in areas not served by a county conservation board. Similar activities, as well as seedings and plantings, may be performed on wildlife habitats if approved by the state conservation commission.

290—25.5(427) **Certification.** In order to have lands certified as native prairie or wildlife habitat, the taxpayer must follow the following procedures:

25.5(1) Native prairie. To have land certified as a native prairie, the owner must make application to the county conservation board, or to the state conservation commission in an area not served by a county conservation board, on forms furnished by the state conservation commission. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted.

25.5(2) Wildlife habitat. To have land certified as wildlife habitat, the owner must make application to the state conservation commission on forms furnished by the commission. The application shall describe and locate the property to be exempted.

290—25.6(427) **Application for exemption.** Application for exemption as a native prairie shall be made annually to the assessing authority on forms provided by the department of revenue, and must be accompanied by an affidavit signed by the applicant that if exemption is granted, the property will not be used for economic gain. The certificate from the county conservation board or the state conservation commission must accompany the application for the first year only. Lands certified as wildlife habitat shall be automatically exempt upon submission of the certification to the appropriate assessor by the state conservation commission.

290—25.7(427) **Decertification.** Whenever land certified as natural prairie or as wildlife habitat is used for economic gain or otherwise becomes ineligible for tax exempt status, the appropriate assessor will be notified and the land shall then be taxed at the regular rate for the fiscal year in which the violation occurs, and for subsequent years unless the property in question is recertified.

These rules are intended to implement the provisions of Iowa Code section 427.1 as amended by 1982 Iowa Acts,

chapter 1247, section 2, unnumbered new subsections 2 and 3.

[Filed 11/5/82, effective 1/1/83]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

ARC 3384

CONSERVATION COMMISSION[290]

Pursuant to the authority of Iowa Code section 107.24, the State Conservation Commission at its regular meeting on November 4, 1982, adopted the following amendments to Chapter 72, "Land and Water Conservation Fund Grants-In-Aid for Local Entities".

Notice of Intended Action was published in IAB, September 29, 1982, as ARC 3234.

These rules give the procedures for local entities of government to obtain federal assistance through the Commission for outdoor recreation projects.

No changes were made from the Notice of Intended Action.

These rules implement the provisions of Iowa Code sections 107.29 to 107.35 and shall become effective December 29, 1982.

ITEM 1. Subrule 72.2(2) is rescinded and the following is adopted in lieu thereof:

72.2(2) Local share. The local share of the annual L&WCF apportionment, after deducting approximately five percent for a contingency fund, when more than \$1,000,000 shall be divided into four equal allotments; when more than \$500,000 but less than \$1,000,000 into two equal allotments; and when less than \$500,000 shall be undivided. These allotments shall be available for local grants on a quarterly, semiannual or annual basis respectively.

ITEM 2. Subrule 72.3(2) is rescinded and the following is adopted in lieu thereof:

72.3(2) A local entity shall have assessed outdoor recreation supplies, demands and needs and shall have allocated for input by affected citizens within the service area of any proposed project and project applications shall include documentation of these planning processes.

ITEM 3. Subrule 72.3(3) is rescinded.

ITEM 4. Rule 290—72.4(107) is rescinded in its entirety and the following is adopted in lieu thereof:

290—72.4(107) **Assistance ceiling.** Local entities are eligible to receive annual assistance from the L&WCF in accordance with the following schedule:

Population of Area of Jurisdiction	L&WCF
0 - 1,000	\$ 50,000
1,001 - 5,000	75,000
5,001 - 10,000	100,000
10,001 - 25,000	125,000
25,001 - 50,000	150,000
50,001 - 75,000	175,000
over 75,000	200,000

CONSERVATION COMMISSION[290] (cont'd)

Exceptions to the above limits: The maximum grant for local entities with populations in excess of 25,000 shall be \$125,000 for any swimming pool or golf course project. The maximum grant limit for local entities with populations of up to and including 10,000 shall be \$125,000 for any land acquisition project.

ITEM 5. Subrule 72.5(2) is rescinded and the following is adopted in lieu thereof:

72.5(2) Application timing. Grant applications and amendment requests which increase the existing grant amount shall be reviewed and selected for funding on a quarterly, semiannual or annual basis as provided in subrule 72.2(2). Quarterly reviews shall be held in January, April, July and October; semiannual reviews in January and July; and annual reviews in April. Applications must be received in acceptable form by the State Conservation Commission, Wallace State Office Building, Des Moines, Iowa 50319 by the close of business on the last work day of the month preceding each review month.

ITEM 6. Subrule 72.6(3) is amended to read as follows:

72.6(3) Application rating system. The committee will apply a numerical rating system to each grant application which is considered for fund assistance. The following criteria, with a weight factor for each, will be considered:

Quality of the Project Site	4
Direct Recreational Benefits	4
Local Need	4
Number of People Served	3
State Outdoor Recreation Plan Priority	3

Each criterion will be given a score of from 1 to 10 which is then multiplied by the weight factor. Two additional criteria will be considered in the rating system:

a. Prior assistance. Any applicant that has never received a prior grant will be given a bonus of five points. Any applicant that has received prior assistance which is more than its fair share will be assessed penalty points. Fair share will be computed by dividing fifty percent of Iowa's total apportionment from the L&WCF by the total state population and multiplying this amount by the population of the applicant agency. Penalty points will be assessed in accordance with the following schedule:

Prior Assistance in Excess of Fair Share	Penalty Points
0 to \$ 2.50 per capita	0
\$ 2.51 to 12.50 per capita	1
12.51 to 22.50 per capita	2
22.51 to 32.50 per capita	3
32.51 to 42.50 per capita	4
over 42.50 per capita	5

b. Active projects. Any applicant that has two active projects at the time of application rating will be assessed five penalty points and five penalty points will be assessed for each additional active project. An active project shall cease to be active when all acquisition or development, or both, have been satisfactorily completed and an acceptable final reimbursement billing has been submitted to the commission.

All points will be totaled for each application and those applications receiving the highest scores will be selected for fund assistance to the extent of the allotment for each quarter review period. However, no application shall be selected which has received a score of less than 110. Such applications shall be returned to the applicant.

ITEM 7. Subrule 72.6(4) is amended to read as follows:  
 72.6(4) Applications not selected for fund assistance. All applications not selected for fund assistance will be retained on file for consideration and possible funding during subsequent review periods or until a request for withdrawal is received from the applicant *except as noted in subrule 72.6(3)*. Applications which have been considered and not selected for funding during four consecutive review periods ~~will~~ *shall* be returned to the applicant.

ITEM 8. Subrule 72.6(5) is rescinded.

ITEM 9. Rule 290—72.7(107) is amended to read as follows:

290—72.7(107) Commission review. The state conservation commissioners will review all committee recommendations each quarter review period at the next following commission meeting. The commissioners may reject any application selected for funding or approve any application not selected by the committee.

ITEM 10. Rule 290—72.8(107) is amended to read as follows:

290—72.8(107) Federal review. All applications selected for fund assistance ~~will~~ *shall* be submitted to the ~~Heritage Conservation and Recreation Service administering federal agency~~ for final review and grant approval.

[Filed 11/5/82, effective 12/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

**ARC 3385**

**CONSERVATION COMMISSION[290]**

Pursuant to the authority of Iowa Code sections 107.24, 109.38, and 109.39 as amended by the 1982 Iowa Acts chapter 1037, the State Conservation Commission at their regular meeting on November 4, 1982, adopted the following amendments to Chapter 111, "Wild Turkey Spring Hunting Regulations", Iowa Administrative Code.

Notice of Intended Action was published in IAB, September 29, 1982, as ARC 3235.

This rule gives the regulations for hunting wild turkeys and includes season dates, bag limits, possession limits, season limits, shooting hours, areas open to hunting, licensing procedures, means and methods of take, and transportation tag requirements.

No changes were made from the Notice of Intended Action.

This rule implements Iowa Code sections 109.38, 109.39, and 109.48 as amended by 1982 Iowa Acts, chapter 1037, and shall become effective January 1, 1983.

ITEM 1. Rule 290—111.1(109) is amended to read as follows:

290—111.1(109) General. Wild turkey may be taken during the ~~1982 1983~~ spring season subject to the following regulations:

111.1(1) License. All hunters must have in possession a ~~1982 1983~~ wild turkey license when hunting wild turkey.

## CONSERVATION COMMISSION[290] (cont'd)

Licenses will be issued by zone and period and will be valid in the designated zone and for the designated period only. Except as provided in rule 111.4(109), no person shall obtain more than one license per year.

**111.1(2)** Daily and possession limits. Daily bag limit, one bearded (or male) wild turkey. Possession limit, one bearded (or male) wild turkey per license. Season limit, one bearded (or male) wild turkey per license.

**111.1(3)** Shooting hours. Shooting hours shall be from one-half hour before sunrise to 12:00 noon, central standard time, each day.

This rule is intended to implement Iowa Code sections 109.38, 109.39, and 109.48 as amended by 1982 Iowa Acts, chapter 1037.

ITEM 2. Rule 290—111.2(109) is amended to read as follows:

**290—111.2(109) Method of take.**

**111.2(1)** Shotgun and bow and arrow. Wild turkey may be taken by shotgun, muzzleloading shotgun, and bow and arrow in ~~eight ten~~ *ten* zones from April ~~12, 1982,~~ through May ~~9 8, 1982~~ *1983*.

**111.2(2)** Zones. Wild turkey, in accordance with the tenure and zone designated on the license issued, may be taken in one of ~~eight ten~~ *ten* zones described as follows:

a. Zone one. Zone one is an area bounded as follows: Beginning at the point where U.S. Highway 169 crosses the Iowa-Missouri state line; thence north on U.S. Highway 169 to State Highway 92; thence east on State Highway 92 to State Highway 5; thence south on State Highway 5 to U.S. Highway 34; thence east on U.S. Highway 34 to U.S. Highway 218; thence north on U.S. Highway 218 to State Highway 78; thence west on State Highway 78 to Keokuk County Road W15; thence north on Keokuk County Road W15 to State Highway 92; thence east on State Highway 92 to State Highway 70; thence north on State Highway 70 to State Highway 22; thence east on State Highway 22 to U.S. Highway 61; thence south on U.S. Highway 61 to Louisa County Road H22; thence east on Louisa County Road H22 to State Highway 99; thence east and south on State Highway 99 to Burlington, Iowa; thence south along the Iowa-Illinois state line to the Iowa-Missouri state line; thence west along the Iowa-Missouri state line to the point of beginning.

Rescind all of paragraph "b" and insert in lieu thereof the following:

b. Zone two. Zone two is an area bounded as follows: Beginning at the point where U.S. Highway 59 crosses the Iowa-Missouri state line; thence north on U.S. Highway 59 to State Highway 37; thence west and north on State Highway 37 to State Highway 183; thence north on State Highway 183 to State Highway 141; thence east on State Highway 141 to U.S. Highway 59; thence north on U.S. Highway 59 to U.S. Highway 20; thence west on U.S. Highway 20 to Woodbury County Road L37; thence south on Woodbury County Road L37 to Woodbury County Road D38; thence west on Woodbury County Road D38 to Woodbury County Road K64; thence north on Woodbury County Road K64 to U.S. Highway 20; thence west on U.S. Highway 20 to the Iowa-Nebraska state line; thence south along the state line to the Iowa-Missouri state line; thence east along the state line to the point of beginning.

c. Zone three. Zone three is an area bounded as follows: Beginning at the point where U.S. Highway 20 and U.S. Highway 169 intersect; thence east along U.S. Highway 20 to State Highway 17; thence south along State Highway 17 to State Highway 141; thence westerly along State

Highway 141 to Dallas County Road F31; thence west along Dallas County Road F31 to U.S. Highway 169; thence north along U.S. Highway 169 to the point of beginning; ~~and also includes an area bounded as follows: Beginning at the point where State Highways 25 and 44 intersect; thence south along State Highway 25 to U.S. Highway 6; thence east and north along U.S. Highway 6 to Redfield, Iowa; thence north along Dallas County Road P46 to State Highway 44; thence west along State Highway 44 to the point of beginning.~~

d. Zone four. Zone four is an area bounded as follows: Beginning at the intersection of Interstate Highways 80 and 380; thence west along Interstate Highway 80 to Poweshiek County Road V18; thence north on Poweshiek and Tama County Roads V18 to U.S. Highway 30; thence east on U.S. Highway 30 to U.S. Highway 218; thence north on U.S. Highway 218 to Black Hawk County Road D48; thence east on Black Hawk and Buchanan County Roads D48 to Brandon, Iowa; thence east on State Highway 283 to State Highway 150; thence south on State Highway 150 to Cedar Rapids, Iowa; thence south on Interstate Highway 380 to the point of beginning.

Rescind all of paragraphs "e" and "f" and insert in lieu thereof the following:

e. Zone five. Zone five is an area bounded as follows: Beginning at the intersection of State Highway 13 and U.S. Highway 30; thence north on State Highway 13 to U.S. Highway 20; thence west on U.S. Highway 20 to State Highway 187; thence north on State Highway 187 to State Highway 3; thence east on State Highway 3 to Dubuque, Iowa; thence south along the state line to State Highway 64; thence west on State Highway 64 to Jackson County Road Z34; thence south on Jackson and Clinton County Roads Z34 to State Highway 136; thence south and east on State Highway 136 to the Iowa-Illinois state line; thence south along the state line to Interstate Highway 80; thence west on Interstate Highway 80 to State Highway 38; thence north on State Highway 38 to U.S. Highway 30; thence west on U.S. Highway 30 to the point of beginning.

f. Zone six. Zone six is an area bounded as follows: Beginning at the point where State Highway 139 crosses the Iowa-Minnesota border; thence south on State Highway 139 to State Highway 9; thence east on State Highway 9 to U.S. Highway 52; thence south on U.S. Highway 52 to State Highway 150; thence south on State Highway 150 to State Highway 3; thence east on State Highway 3 to Dubuque, Iowa; thence north along the Iowa-Wisconsin state line to the Iowa-Minnesota state line; thence west along the state line to the point of beginning, except this zone does not include those lands described as zone seven.

g. Zone seven. Zone seven is the Yellow River State Forest in Allamakee and Clayton Counties and the Volga State Recreation Area in Fayette County only.

Rescind all of paragraph "h" and insert in lieu thereof the following:

h. Zone eight. Zone eight is an area bounded as follows: Beginning at Waverly, Iowa; thence north on Bremer and Chickasaw County Roads V14 to State Highway 346; thence east on State Highway 346 to U.S. Highway 18; thence east on U.S. Highway 18 to Chickasaw County Road V56; thence south on Chickasaw and Bremer County Roads V56 to State Highway 3; thence west on State Highway 3 to the point of beginning.

i. Zone nine. Zone nine is an area bounded as follows: Beginning at the intersection of State Highway 175 and U.S. Highway 65; thence north on U.S. Highway 65 to U.S. Highway 20; thence east on U.S. Highway 20 to Butler

## CONSERVATION COMMISSION[290] (cont'd)

County Road T19; thence south on Butler and Grundy County Roads T19 to State Highway 214; thence south on State Highway 214 to State Highway 175; thence west on State Highway 175 to the point of beginning.

j. Zone ten. Zone ten is an area bounded as follows: Beginning at the intersection of State Highways 44 and 25; thence south on State Highway 25 to U.S. Highway 6; thence east and north on U.S. Highway 6 to Redfield, Iowa; thence north on Dallas County Road P46 to State Highway 44; thence west on State Highway 44 to the point of beginning.

This rule is intended to implement Iowa Code sections 109.38, 109.39, and 109.48 as amended by 1982 Iowa Acts, chapter 1037.

ITEM 3. Rule 290—111.4(109) is amended to read as follows:

**290—111.4(109) Application procedure.** All applications for wild turkey hunting licenses for the ~~1982~~ 1983 spring wild turkey hunting season must be made on forms provided by the state conservation commission and returned to the state conservation commission office in Des Moines, Iowa, with a remittance of fifteen dollars. Individual applications only will be accepted.

**111.4(1) Application periods.** Applications for ~~1982~~ 1983 spring wild turkey hunting licenses shall be received and accepted from January ~~18~~ 17 through February ~~16~~ 15, ~~1982~~ 1983, or if the application form bears a valid and legible U.S. Postal Service postmark during the same period. No person shall submit more than one application. At the end of such period, if applications have been received in excess of the license quota for any hunting zone or period the commission shall conduct a drawing to determine which applicants shall receive licenses. Incomplete or improperly completed applications, applications not meeting the above conditions, or applications received prior to or after the application period shall not be considered valid applications for the drawing. If the quota for any hunting period or zone has not been filled by applications received during the application period, licenses shall then be issued in the order in which applications are received thereafter and shall continue to be issued until the quota has been met or until March ~~28~~ 27, ~~1982~~ 1983, whichever first occurs. If licenses are still available after March ~~23~~ 22, ~~1982~~ 1983, applicants who have already received one license may apply for one additional license, and applications shall be handled in the same manner as other applications received during that period of March ~~24~~ 23, ~~1982~~; through March ~~28~~ 27, ~~1982~~ 1983.

**111.4(2) License quotas.** A limited number of wild turkey hunting licenses will be issued for each zone for each of three hunting periods. The hunting periods are April ~~13~~ 12, ~~1982~~; through April ~~19~~ 18, ~~1982~~ 1983; April ~~20~~ 19, ~~1982~~; through April ~~17~~ 26, ~~1982~~ 1983; and April ~~28~~ 27, ~~1982~~; through May ~~9~~ 8, ~~1982~~ 1983. The maximum number of licenses which will be issued in each zone for each hunting period is as follows:

- a. Zone one. Twelve hundred fifty.
- b. Zone two. Two hundred ~~twenty-five~~.
- c. Zone three. One hundred ~~twenty~~.
- d. Zone four. ~~Ninety~~ One hundred ten.
- e. Zone five. One hundred ~~twenty~~ ~~seventy-five~~.
- f. Zone six. ~~One hundred~~ ~~seventy-five~~ Five hundred fifty.
- g. Zone seven. One hundred.
- h. Zone eight. ~~Three hundred~~ Fifteen.
- i. Zone nine. Ten.
- j. Zone ten Thirty.

**111.4(3) Applications for special turkey hunting licenses, as provided for in Iowa Code section 109.38, as amended by 1982 Iowa Acts, chapter 1037, shall be on forms furnished by the commission, and shall be received at the commission offices no later than March 12, 1983.**

This rule is intended to implement Iowa Code sections 109.38, 109.39, and 109.48 as amended by 1982 Iowa Acts, chapter 1037.

[Filed 11/5/82, effective 1/1/83]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3371

## HEALTH DEPARTMENT[470]

## MEDICAL EXAMINERS, BOARD OF

Pursuant to the authority of Iowa Code section 147A.4, the Iowa Board of Medical Examiners hereby adopts amendments to Chapter 132, "Advanced Emergency Medical Care", Iowa Administrative Code.

The adopted rule establishes fees for examinations, certification and renewal of certificates for advanced emergency medical technicians (EMT) and paramedics as provided by 1982 Iowa Acts, chapter 1005.

No statutory authority existed prior to 1982 Iowa Acts, chapter 1005 to allow for the establishment of fees.

Notice of Intended Action was published in IAB, September 1, 1982 as ARC 3177.

Minor grammatical changes from such notice are as follows:

Subrule 132.3(5)"a". The applicant completes ~~and submits~~ all necessary forms ~~and submits these forms and fees~~ required by the board.

This rule will become effective on December 29, 1982.

ITEM 1. Rule 470—132.3(147A) introductory paragraph is amended to read as follows:

**470—132.3(147A) EMT certification.** Advanced emergency medical care personnel - certification ~~and~~, renewal standards and procedures, ~~and fees~~.

ITEM 2. Subrule 132.3(3), paragraph "c" amended as follows:

c. Application for re-examination ~~shall be accompanied by the examination fee.~~ Application shall be submitted at least thirty days in advance of the examination date.

ITEM 3. Subrule 132.3(5), paragraph "a" is amended as follows:

a. The applicant completes ~~and submits~~ all necessary forms ~~and submits these forms and fees~~ required by the board.

ITEM 4. Subrule 132.3(8), paragraph "a" is amended as follows:

a. Completed and submitted all necessary forms ~~and fees~~ required by the board.

**HEALTH DEPARTMENT[470] (cont'd)**

ITEM 5 Rule 132.3(147A) is amended by adding a new subrule to read as follows:

**132.3(9)** Examination-certification-renewal fees. The following fees shall be collected by the board.

a. Examination and certification fees for graduates of approved training programs:

1. For EMT-I, ten dollars.
2. For EMT-II, fifteen dollars.
3. For Paramedic, twenty dollars.

b. Examination and certification fees for individuals challenging advanced care testing or seeking endorsement from another state certification are:

1. For EMT-I, twenty dollars.
2. For EMT-II, thirty dollars.
3. For Paramedic, forty dollars.

c. Fees for the biennial renewal of advanced EMT or paramedic certificates are as follows:

1. For EMT-I, five dollars.
2. For EMT-II, seven dollars and fifty cents.
3. For Paramedic, ten dollars.

This rule is intended to implement Iowa Code section 147A.4, as amended by the 1982 Iowa Acts, chapter 1005.

[Filed 10/27/82, effective 12/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

**ARC 3387****HEALTH DEPARTMENT[470]****MEDICAL EXAMINERS, BOARD OF**

Pursuant to the authority of Iowa Code sections 147.76 and 147.80, the Iowa Board of Medical Examiners hereby adopts amendments to Chapter 135, "Medical Examiners", Iowa Administrative Code.

This change is required to defray the increase in cost of the Federation Licensing Examination (FLEX) from \$90.00 to \$160.00 effective January 1, 1983.

Notice of Intended Action was published in IAB, September 29, 1982 as ARC 3240.

These rules are identical to those filed as Notice of Intended Action and will become effective on December 29, 1982.

These rules are intended to implement Iowa Code chapters 147, 148 and 150A.

ITEM 1. Subrule 135.102(1) is amended as follows:

**135.102(1)** The application accompanied by a fee of ~~one~~ two hundred fifty dollars must be on file at least seventy-five days prior to the date of the examination.

ITEM 2. Subrule 135.108(1) is amended as follows:

**135.108(1)** For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of examination given by the medical examiners prior to January 1, 1983, one hundred fifty dollars. For a license to practice medicine and surgery or osteopathic medicine and surgery issued upon the basis of examination given by the medical examiners subsequent to January 1, 1983, two hundred fifty dollars.

These rules are intended to implement Iowa Code sections 147.2, 147.29, 147.80, 147.82, 147.102, 148.4 and 150A.7.

[Filed 11/5/82, effective 12/29/82]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

**ARC 3391****PUBLIC SAFETY  
DEPARTMENT[680]**

Pursuant to the authority of Iowa Code sections 100.35 and 101.1, the Iowa Department of Public Safety adopts amendments to Chapter 5, Fire Marshal, regarding exits and fire escapes.

Notice of Intended Action was published in IAB, September 29, 1982, as ARC 3243.

Changes from such notice are as follows:

5.50(1) reads as follows:

5.50(1) Scope. As used in Iowa Code section 100.35, the phrase "building or structures to which persons congregate from time to time" is defined to mean — in addition to those items listed in the statute — courthouses, assembly halls, opera houses, motels, and all enclosed structures of any kind used for the purpose or purposes of deliberation, worship, entertainment, amusement or awaiting transportation.

5.50(2) to 5.50(12) renumbered as 5.50(3) to 5.50(13). The following added as 5.50(2).

"5.50(2) The state fire marshal may, where buildings, structures or facilities are being constructed and enforced to local, state or federal codes equivalent to or more restrictive than the rules promulgated within, accept such codes as meeting the intent of this chapter."

5.50(10) paragraph "e" Exit definition, changed to read "Exit is a continuous and unobstructed means of egress to a public way and shall include intervening aisles, doors, doorways corridors, exterior exit balconies, ramps, stairways, smokeproof enclosures, horizontal exits, exit passageways, exit courts and yards." Definitions, "Exit access and exit discharge" were deleted.

5.52(3) Added "diagonal" in "the length of the maximum overall diagonal dimension".....

5.52(4) "Distance to exits after building equipped with an automatic sprinkler system throughout," added the sentence, "These distances may be increased one hundred feet when the last one hundred and fifty feet is within a corridor complying with rule 5.54(100)."

5.52(7) Added subrule on underground structures.

5.53(8) Added the following Exception. "When the door opens into a stair of a smokeproof enclosure the landing need not have a length of five feet."

5.54(1) Added the underlined language "This section shall apply to every corner serving as a required exit for an occupant load of ten or more."

5.54(7) Deleted exception which read "One story building housing noncombustibles and nonexplosive light hazard occupancies."

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

5.54(9), paragraph "a" Doors, added the underlined language, "Doors shall be maintained self-closing or shall be automatic closing by actuation of an approved smoke detector." [Last sentence of paragraph "b" reworded]

5.55(3) Deleted reference of subrule 5.55(6) and added the following: "The greatest riser height within any flight of stairs shall not exceed the smallest by more than three-eighths inch."

5.55(8) Identified the two distinct sections regarding handrails as "a" (general) and "b" (distance). Prior format indicated that what is now labeled "b" was part of the exceptions which it is not.

5.55(9) Under exceptions, added the following:

"2. Guardrails need not be provided on the loading side of loading docks."

"3. Guardrails need not be provided on the auditorium side of a stage or enclosed platform."

5.58(1) Exceptions. Renumbered 1 and 2 as 2 and 3, added as #1 the following, "In other than institutional occupancies, an enclosure will not be required for a stairway, ramp or escalator serving only one adjacent floor and not connected with corridors or stairways serving other floors."

Renumbered 3 to 4 and amended it to read as follows: "Completely sprinklered buildings may be unenclosed up to three floors."

5.58(2) deleted the language, "Escalators or moving walk not constituting an exit shall have their third floor openings enclosed or protected or required for other vertical openings."

5.59(7), paragraph "e" amended to read as follows: "Stair shaft air movement system. The stair shaft shall be provided with a dampered relief opening at the top and supplied mechanically with sufficient air to discharge a minimum of 2500 cubic feet per minute through the relief opening while maintaining a minimum positive pressure of 0.05-inch of water column in the shaft relative to atmosphere with all doors closed and a minimum of 0.10-inch water column difference between the stair shaft and the vestibule."

5.64(2), paragraphs "a" to "c" renumbered as "1." to "3." and subparagraphs (1) to (8) renumbered as 5.64(3) to 5.64(8).

5.100(4) renumbered as 5.100(5), and added a new 5.100(4) which reads as follows:

"5.100(4) Conditions legally in existence with Iowa Code chapter 103, at the time of adoption of these rules shall be permitted to continue unless the local authority determines such conditions constitute a distinct hazard to life or property.

Those buildings, structures or facilities not meeting these rules or not legally in existence with chapter 103 at the time of the adoption of these rules shall within eighteen months after the effective date of these rules submit plans to the local authority and within eighteen months thereafter complete the work."

5.101(1) Added the following:

An exit ladder device when used in lieu of a fire escape shall conform with the following:

a. Serves an occupant load of ten or less or a single dwelling unit or guest room.

b. The building does not exceed three stories in height.

c. The access is adjacent to an opening as specified for emergency egress or rescue or from a balcony.

d. Shall not pass in front of any building opening below the unit being served.

e. The availability of activating the device for the ladder is accessible only from the opening or balcony served.

f. So installed that it will not cause a person using it to be within six feet of exposed electrical wiring.

5.101(3) Corridors. added the underlined language "Corridors serving as a required exit for an occupant load of thirty or more shall have walls and ceilings. . . . fixed in a closed position."

These rules are intended to implement Iowa Code chapter 101.

These rules will become effective December 29, 1982.

The following rules are adopted.

ITEM 1. Rescind rule 680—5.50(103) and insert in lieu thereof the following:

## MEANS OF EXIT

**680—5.50(100) Exits.**

**5.50(1) Scope.** As used in Iowa Code section 100.35, the phrase "buildings or structures to which persons congregate from time to time" is defined to mean — in addition to those items listed in the statute — courthouses, assembly halls, opera houses, motels, and all enclosed structures of any kind used for the purpose or purposes of deliberation, worship, entertainment, amusement or awaiting transportation.

**5.50(2)** The state fire marshal may, where buildings, structures or facilities are being constructed and enforced to local, state or federal codes equivalent to or more restrictive than the rules promulgated within, accept such codes as meeting the intent of this chapter.

**5.50(3) General requirements.** Every new and existing building, structure or facility, addition to, or portion thereof shall be provided with a safe means of exit as required by the provisions within this chapter.

EXCEPTION: As provided for by the specific occupancies enforced by the state fire marshal under his jurisdiction.

**5.50(4)** Approved type of fire extinguishers shall be provided on each floor, so located as to be accessible to the occupants and spaced so no person must travel more than seventy-five feet from any point to reach the nearest fire extinguisher.

**5.50(5)** In all buildings or structures of such size, arrangement or use, where delayed detection of a fire could endanger the occupants, the fire marshal may require an automatic fire detection and alarm system.

**5.50(6)** All fire and life safety equipment or devices shall be regularly and properly maintained in an operable condition at all times in accordance with nationally recognized standards. This includes fire extinguishing equipment, alarm systems, doors and their appurtenances, electric service, including appliances, cords and switches, heating and ventilation equipment, sprinkler systems, and exit facilities.

**5.50(7)** Excessive storage of combustible or flammable materials such as papers, cartons, magazines, paints, old clothing, furniture and similar materials shall not be permitted.

**5.50(8)** The state fire marshal shall have the authority to require compliance with nationally recognized standards when the occupancy uses, stores, develops or handles hazardous materials. Equipment used in conjunction with these types of materials must be of a type designated for the use so as to provide the necessary safety to life and property.

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

**5.50(9)** Food preparation facilities shall be protected in accordance with Vapor Removal Cooking Equipment, National Fire Protection Association Standard 96, and all such equipment be of an approved type and properly maintained.

**5.50(10)** Definitions: For the purpose of this chapter, certain terms are defined as follows:

a. "Balcony, exterior exit" is a landing or porch projecting from the wall of a building, and which serves as a required exit. The long side shall be at least fifty percent open, and the open area above the guardrail shall be so distributed as to prevent the accumulation of smoke or toxic gases.

b. "Basement" is a usable or unused floor space not meeting the definition of a story. See specific occupancies for other provisions.

c. "Continental seating" is the configuration of fixed seating where the number of seats per row exceeds fourteen and required exits from the seating area are side exits.

d. "Dwelling" is any building or portion thereof which contains not more than two dwelling units.

e. "Exit." Exit is a continuous and unobstructed means of egress to a public way and shall include intervening aisles, doors, doorways, corridors, exterior exit balconies, ramps, stairways, smokeproof enclosures, horizontal exits, exit passageways, exit courts and yards.

f. "Exit court" is a yard or court providing access to a public way for one or more required exits.

g. "Exit passageway" is an enclosed exit connecting a required exit or exit court with a public way.

h. "Horizontal exit" is an exit from one building into another building on approximately the same level or through or around a wall constructed as required for a two-hour occupancy separation and which completely divides a floor into two or more separate areas so as to establish an area of refuge affording safety from fire or smoke coming from the area from which escape is made.

i. "Lodging house" is any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

j. "Mezzanine or mezzanine floor" is an intermediate floor placed in any story or room. When the total of any such "mezzanine floor" exceeds thirty-three and one-third percent of the total floor area in that room, it shall be considered as constituting an additional "story". The clear height above or below a mezzanine floor construction shall not be less than seven feet.

k. "Panic hardware" is a door-latching assembly incorporating an unlatching device, the activating portion of which extends across at least one half the width of the door on which it is installed.

l. "Private stairway" is a stairway serving one tenant only.

m. "Public way" is any street, alley or similar parcel of land essentially unobstructed from the ground to the sky which is deeded, dedicated or otherwise permanently appropriated to the public for public use and having a clear width of not less than ten feet.

n. "Spiral stairway" is a stairway having a closed circular form in its plan view with uniform section shaped treads attached to and radiating about a minimum diameter supporting column. The effective tread is delineated by the nosing radius line, the exterior arc (center line of railing) and the overlap radius line (nosing radius line of tread above). Effective tread dimensions are taken along a line perpendicular to the center line of the tread.

o. "Story" is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than fifty percent of the total perimeter or is more than twelve feet above-grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

**5.50(11)** Exit obstruction. Obstructions shall not be placed in the required width of an exit except projections permitted by this chapter.

**5.50(12)** Changes in elevation. Within a building, changes in elevation of less than twelve inches along any exit serving an occupant load of ten or more shall be by ramps.

EXCEPTION: Dwelling and lodging house occupancies and along aisles adjoining seating areas.

**5.50(13)** Accessibility. Buildings, facilities or structures required to be accessible to physically handicapped shall meet all the provisions of the Iowa state building code, administration section, division 7.

**680—5.51(100) Occupant load.**

**5.51(1)** Determination of occupant load. In determining the occupant load, all portions of a building shall be presumed to be occupied at the same time.

EXCEPTION: Accessory use areas which ordinarily are used only by persons who occupy the main areas of an occupancy shall be provided with exits as though they are completely occupied, but their occupant load need not be included in computing the total occupant load of the building.

The occupant load for a building shall be determined in accordance with the following:

a. General. For areas without fixed seats, the occupant load shall be not less than the number determined by dividing the floor area assigned to that used by the occupant load factor set forth in Table No. 5-A. Where an intended use is not listed in Table No. 5-A, the authority having jurisdiction shall establish an occupant load factor based on a listed use which most nearly resembles the intended use.

For a building or portion thereof which has more than one use, the occupant load shall be determined by the use which gives the largest number of persons.

The occupant load for buildings or areas containing two or more occupancies shall be determined by adding the occupant loads of the various use areas as computed in accordance with the applicable provisions of this rule.

b. Fixed seating. For areas having fixed seats and aisles, the occupant load shall be determined by the number of fixed seats installed therein. The required width of aisles serving fixed seats shall not be used for any other purpose.

For areas having fixed benches or pews, the occupant load shall be not less than the number of seats based on one person for each eighteen inches of length of pew or bench.

Where booths are used in dining areas, the occupant load shall be based on one person for each twenty-four inches of booth length or major portion thereof.

c. Reviewing stand, grandstands, and bleachers. The occupant load for reviewing stands, grandstands and



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bleachers shall be calculated in accordance with rule 680—5.51(100).

**5.51(2) Maximum occupant load.** The maximum occupant load for other than an assembly use shall not exceed the capacity of exits as determined in accordance with this chapter.

The maximum occupant load for an assembly use shall not exceed the occupant load as determined in accordance with subrules 5.51(1) and 5.51(2).

**EXCEPTION:** The occupant load for an assembly building or portion thereof may be increased, when approved by the authority having jurisdiction, if all the requirements of this chapter are met for such increased number of persons. The authority having jurisdiction may require an approved aisle, seating or fixed equipment diagram to substantiate such an increase, and may require that such diagram be posted.

**5.51(3) Posting of room capacity.** Any room having an occupant load of fifty or more where fixed seats are not installed, and which is used for classroom, assembly or similar purpose, shall have the capacity of the room posted in a conspicuous place on an approved sign near the main exit from the room. Such signs shall be maintained legible by the owner or his authorized agent and shall indicate the number of occupants permitted for each room use.

**5.51(4) Revised occupant load.** After a building is occupied, any change in use or increase in occupant load shall comply with this chapter.

**680—5.52(100) Exits required.**

**5.52(1) Number of exits.** Every building or usable portion thereof shall have at least one exit, not less than two exits where required by Table No. 5-A and additional exits as required by these rules.

For purposes of this rule, basements and occupied roofs shall be provided with exits as required for stories.

Floors complying with the definition for mezzanines as described herein shall be provided with exits as specified in this chapter.

Two exits shall be provided from mezzanines having an occupant load of more than ten or when the area of the mezzanine exceeds two thousand square feet whichever is more restrictive. The occupant load of the mezzanine shall be added to the occupant load of the story or room in which it is located.

The second story in every building shall have at least two exits and shall be remote from each other and so arranged and constructed as to minimize any possibility that both may be blocked by any one fire or other emergency.

**EXCEPTIONS:**

1. Where a single exit or limited dead end may be required by a specific occupancy or other provisions of the fire marshal's rules.

2. Except as provided in Table No. 5-A, only one exit need be provided from the second story within an individual dwelling unit. Each sleeping room shall have an egress or rescue window having a minimum net clear opening of 5.7 square feet. The minimum net clear height opening dimension shall be twenty-four inches. The minimum net clear opening width dimension shall be twenty inches. Where windows are provided as a means of egress or rescue they shall have a finished sill height not more than forty-four inches above the floor.

Every story or portion thereof having an occupant load of five hundred and one to one thousand shall have not less than three exits.

Every story or portion thereof having an occupant load of one thousand and one or more shall have not less than four exits.

The number of exits required from any story of a building shall be determined by using the occupant load of that story plus the percentages of the occupant loads of floors which exit through the level under consideration as follows:

1. Fifty percent of the occupant load in the first adjacent story above and the first adjacent story below, when a story below exits through the level under consideration.

2. Twenty-five percent of the occupant load in the story immediately beyond the first adjacent story.

The maximum number of exits required for any story shall be maintained until egress is provided from the structure.

**5.52(2) Width.** The total width of exits in feet shall be not less than the total occupant load served divided by fifty. Such width of exits shall be divided approximately equally among the separate exits. The total exit width required from any story of a building shall be determined by using the occupant load of that story plus the percentages of the occupant loads of floors which exit through the level under consideration as follows:

a. Fifty percent of the occupant load in the first adjacent story above and the first adjacent story below, when a story below exits through the level under consideration.

b. Twenty-five percent of the occupant load in the story immediately beyond the first adjacent story.

c. The maximum exit width required from any story of a building shall be maintained.

**5.52(3) Arrangement of exits.** If only two exits are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between exits.

**EXCEPTIONS:** When exit enclosures are provided as a portion of the required exit and are interconnected by a corridor conforming to the requirements of subrule 5.54(7) exit separations may be measured along a direct line of travel within the exit corridor. Enclosure walls shall be not less than thirty feet apart at any point in a direct line of measurement.

When three or more exits are required, they shall be arranged a reasonable distance apart so that if one becomes blocked the others will be available.

**5.52(4) Distance to exits.** The maximum distance of travel from any point to an exterior exit door, horizontal exit, exit passageway or an enclosed stairway in a building not equipped with an automatic sprinkler system throughout shall not exceed one hundred fifty feet or two hundred feet in a building equipped with an automatic sprinkler system throughout.

These distances may be increased one hundred feet when the last one hundred fifty feet is within a corridor complying with rule 5.54(100). In a one-story building classified as a factory or warehouse and in one-story airplane hangars, the exit travel distance may be increased to four hundred feet if the building is equipped with an automatic sprinkler system throughout and provided with an approved smoke and heat ventilation system.

In a ramp or mechanical access open parking garage, the exit travel distance may be increased to two hundred fifty feet.

**5.52(5) Exits through adjoining rooms.** Rooms may have one exit through an adjoining or intervening room which provides a direct, obvious and unobstructed means

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

of travel to an exit corridor, exit enclosure or until egress is provided from the building, provided the total distance of travel does not exceed that permitted by other provisions of this chapter. In other than dwelling units, exits shall not pass through kitchens, store rooms, rest rooms, closets, employee locker rooms, soiled linen rooms, laundries, handicraft shops, repair shops or rooms or space used for the storage of combustible supplies and equipment, paint shops, or boiler and heater rooms.

## EXCEPTIONS:

1. Rooms within dwelling units may exit through more than one intervening room.

2. Rooms with a cumulative occupant load of ten or less may exit through more than one intervening room.

Foyers, lobbies and reception rooms constructed as required for corridors shall not be construed as intervening rooms.

**5.52(6)** An approved automatic sprinkler system shall be installed in basements of all buildings when the floor area exceeds 1500 square feet and there is not provided at least twenty square feet of opening entirely above the adjoining ground level in each fifty lineal feet or fraction thereof of exterior wall in the basement on at least one side of the building. Openings shall have a minimum dimension of not less than thirty inches. Such openings shall be accessible to the fire department from the exterior and shall not be obstructed in a manner that fire fighting or rescue cannot be accomplished from the exterior.

When openings in a basement are provided on only one side and the opposite wall of such basement is more than seventy-five feet from such openings, the basement shall be provided with an approved automatic sprinkler system, or openings as specified above shall be provided on at least two sides of an exterior wall of the basement.

If any portion of a basement is located more than seventy-five feet from openings required in this section, the basement shall be provided with an approved automatic sprinkler system.

EXCEPTION: Except dwellings, lodging houses, private garage, sheds and agricultural buildings.

**5.52(7)** Underground structures. Underground structures which exceed 1500 square feet per floor shall be protected throughout by an approved automatic sprinkler system.

Exits from underground structures involving upward travel, such as ascending stairs or ramps, shall be cut off from main floor areas. Stairtowers of two-hour construction shall be provided from underground structures when serving up to two floors. Stairtowers of four-hour construction shall be provided from underground structures serving more than two floors.

Outside smoke venting shall be provided to prevent the exits from becoming charged with smoke from any fire in the area served by the exits.

Emergency lighting shall be provided for all underground structures.

**680—5.53(100) Doors.**

**5.53(1)** General. This rule shall apply to every exit door serving an area having an occupant load of ten or more, or serving hazardous rooms or areas, except that subrules 5.53(3), 5.53(8), and 5.53(9) shall apply to all exit doors regardless of occupant load. Building or structures used for human occupancy shall have at least one exterior door that meets the requirements of subrule 5.53(5).

**5.53(2)** Swing. Exit doors shall be a side hinged swinging door. Exit doors must swing in the direction of

exit travel when serving any hazardous area or when serving an area having an occupant load of fifty or more.

a. Double-acting doors shall not be used as exits when any of the following conditions exist:

(1) The occupant load served by the door is one hundred or more.

(2) The door is part of a fire assembly.

(3) The door is part of a smoke and draft control assembly.

(4) Panic hardware is required or provided on the door.

b. A double-acting door shall be provided with a view panel of not less than two hundred square inches.

**5.53(3)** Type of lock or latch. Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort.

## EXCEPTIONS:

1. This requirement shall not apply to exterior exit doors in office or mercantile type occupancies if there is a readily visible, durable sign on or adjacent to the door stating "THIS DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS." The sign shall be in letters not less than one inch high on contrasting background. The locking device must be a type that will be readily distinguishable as locked. The use of this exception may be revoked by the authority having jurisdiction for due cause.

2. Exit doors from individual dwelling units and guest rooms or residential occupancies having an occupant load of ten or less may be provided with a night latch, dead bolt or security chain, provided such devices are openable from the inside without the use of a key or tool and mounted at a height not to exceed forty-eight inches above the finished floor.

Manually operated edge or surface mounted flush bolts and surface bolts are prohibited. When exit doors are used in pairs and approved automatic flush bolts are used, the door leaf having the automatic flush bolts shall have no door knob or surface mounted hardware. The unlatching of any leaf shall not require more than one operation.

EXCEPTION: Dwelling and lodging house occupancies.

**5.53(4)** Panic hardware. Panic hardware, when installed, shall be of an approved type. The activating member shall be mounted at a height of not less than thirty inches nor more than forty-four inches above the floor. The unlatching force shall not exceed fifteen pounds when applied in the direction of exit travel.

**5.53(5)** Width and height. Every required exit doorway shall be of a size as to permit the installation of a door not less than three feet in width and not less than six feet eight inches in height. When installed, exit doors shall be capable of opening so that the clear width of the exit is not less than thirty-two inches. In computing the exit width required by subrule 5.52(2), the net dimension of the exitway shall be used.

**5.53(6)** Door leaf width. A single leaf of an exit door shall not exceed four feet in width.

**5.53(7)** Special doors. Revolving, sliding and overhead doors shall not be used as required exits.

a. Approved power-operated doors may be used for exit purposes. Such doors when swinging shall have two guide rails installed on the swing side projecting out from the face of the door jambs for a distance not less than the widest door leaf. Guide rails shall be not less than thirty inches in height with solid or mesh panels to prevent penetration into door swing and shall be capable of resist-

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

ing a horizontal load at the top of the rail of not less than fifty pounds per lineal foot.

## EXCEPTIONS:

1. Walls or other type separators may be used in lieu of the above guide rail, provided all the criteria are met.

2. Guide rails in industrial or commercial occupancies not accessible to the public may increase the open space between intermediate rails or ornamental pattern so that a twelve-inch diameter sphere cannot pass through.

3. Doors swinging toward flow of traffic shall not be permitted for use by untrained pedestrian traffic unless actuating devices start to function at least eight feet eleven inches beyond door in open position and guide rails extend six feet five inches beyond door in open position.

b. Clearances for guide rails shall be as follows:

(1) Six inches maximum between rails and leading edge of door at the closest point in its arc of travel.

(2) Six inches maximum between rails and the door in open position.

(3) Two inches minimum between rail at hinge side and door in open position.

(4) Two inches maximum between freestanding rails and jamb or other adjacent surface.

**5.53(8)** Floor level at doors. Regardless of the occupant load, there shall be a floor or landing on each side of a door. The floor or landing shall not be more than one-half inch lower than the threshold of the doorway. When doors are open over landings, the landing shall have a length of not less than five feet.

EXCEPTION: When the door opens into a stair of a smoke-proof enclosure, the landing need not have a length of five feet.

**5.53(9)** Door identification. Glass doors shall conform to the requirements specified in Federal Specification DD-G-00451b and ANSI Standard Z97.1-1975.

Exit doors shall be so marked that they are readily distinguishable from the adjacent construction.

**5.53(10)** Additional doors. When additional doors are provided for egress purposes, they shall conform to all provisions of this chapter.

EXCEPTIONS: Approved revolving doors having leaves which will collapse under opposing pressures may be used in exit situations, provided:

1. Such doors have a minimum width of six feet six inches.

2. At least one conforming exit door is located adjacent to each revolving door.

3. The revolving door shall not be considered to provide any exit width.

**680—5.54(100) Corridors and exterior exit balconies.**

**5.54(1)** General. This section shall apply to every corridor serving as a required exit for an occupant load of ten or more. For the purposes of the section, the term "corridor" shall include "exterior exit balconies" and any covered or enclosed exit passageway, including walkways, tunnels and malls. Partitions, rails, counters and similar space dividers not over five feet nine inches in height above the floor shall not be construed to form corridors.

Exit corridors shall not be interrupted by intervening rooms.

EXCEPTION: Foyers, lobbies or reception rooms constructed as required for corridors shall not be construed as intervening rooms.

**5.54(2)** Width. Every corridor serving an occupant load of ten or more shall be not less than forty-four inches in width. Regardless of the occupant load, corridors in dwell-

ing and lodging occupancies and within dwelling units in hotels, apartments, convent or monastery occupancies shall have a minimum width of thirty-six inches.

NOTE: See specific regulations for schools and institutions.

**5.54(3)** Height. Corridors and exterior exit balconies shall have a clear height of not less than seven feet measured to the lowest projection from the ceiling.

**5.54(4)** Projections. The required width of corridors shall be unobstructed.

EXCEPTION: Handrails and doors, when fully opened, shall not reduce the required width by more than seven inches. Doors in any position shall not reduce the required width by more than one half. Other nonstructural projections such as trim and similar decorative features may project into the required width one and one-half inches on each side.

**5.54(5)** Access to exits. When more than one exit is required, they shall be so arranged that it is possible to go in either direction from any point in a corridor to a separate exit, except for dead ends not exceeding twenty feet in length.

**5.54(6)** Changes in elevation. When a corridor or exterior exit balcony is accessible to the handicapped, changes in elevation of the floor shall be made by means of a ramp, except as provided for doors by subrule 5.53(8). Refer to state building code, division 7, handicapped access.

**5.54(7)** Construction. Walls of required exit corridors shall be of not less than one-hour fire-resistive construction and the ceiling shall be not less than that required for a one-hour fire-resistive floor or roof system.

## EXCEPTIONS:

1. Corridors more than thirty feet in width where occupancies served by such corridors have at least one exit independent from the corridor. (See specific occupancy for covered malls.)

2. Exterior sides of exterior exit balconies.

3. In institutional occupancies such as jails, prisons, reformatories and similar buildings with open barred cells forming corridor walls, the corridors and cell doors need not be fire resistive.

When the ceiling of the entire story is an element of a one-hour fire-resistive floor or roof system, the corridor walls may terminate at the ceiling. When the room side fire-resistive membrane of the corridor wall is carried through to the underside of a fire-resistive floor or roof above, the corridor side of the ceiling may be protected by the use of ceiling materials as required for one-hour floor or roof system construction or the corridor ceiling may be made of the same construction as the corridor walls.

Ceilings of noncombustible construction may be suspended below the fire-resistive ceiling.

**5.54(8)** Wall and ceiling finish shall be in accordance with those requirements for a specific occupancy.

Interior finish in exits must be limited to Class A/Type I, or Class B/Type II will be permitted in a fully sprinklered building.

**5.54(9) Openings.**

a. Doors. When corridor walls are required to be of one-hour fire-resistive construction by subrule 5.54(7), every door opening shall be protected by a tight fitting smoke and draft control assembly having a fire protection rating of not less than twenty minutes when tested in accordance with National Fire Protection Association Standard 252 without the hose stream test. The door and frame shall bear an approved label or other identification showing the rating thereof, the name of the manufacturer and the identification of the service conducting the inspection of materials

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and workmanship at the factory during fabrication and assembly. Doors shall be maintained self-closing or shall be automatic closing by actuation of an approved smoke detector. Smoke and draft control door assemblies shall be provided with a gasket so installed as to provide a seal where the door meets the stop on both sides and across the top.

## EXCEPTIONS:

1. Viewports, if required, may be installed having a hole not larger than one inch in diameter through the door, having at least a one-fourth-inch-thick glass disc and a metal holder which will not melt out when subject to temperatures of 1700° F.

2. Protection of openings in the interior walls of exterior exit balconies is not required.

b. Openings other than doors. Interior openings for other than doors or ducts shall be protected by fixed approved one-fourth-inch-thick wired glass installed in steel frames. The total area of all openings, other than doors, in any portion of an interior corridor shall not exceed twenty-five percent of the area of the corridor wall of the room which it is separating from the corridor.

For duct openings an approved fire damper shall be installed within the duct at each point the duct penetrates a fire resistive floor-ceiling or roof-ceiling assembly and fire rated corridor wall having openings into the corridor.

EXCEPTION: Protection of openings in the interior walls of exterior exit balconies is not required.

5.54(10) Location on property. Exterior exit balconies shall not be located in an area where openings are required to be protected due to location on the property.

**680—5.55(100) Stairways.**

5.55(1) General. Every stairway having two or more risers serving any building or portion thereof shall conform to the requirements of this section.

EXCEPTION: Stairs or ladders used only to attend equipment are exempt from the requirements of this section.

5.55(2) Width. Stairways serving an occupant load of fifty or more shall be not less than forty-four inches in width. Stairways serving an occupant load of forty-nine or less shall be not less than thirty-six inches in width. Private stairways serving an occupant load of less than ten shall be not less than thirty inches in width.

Handrails may project into the required width a distance of three and one-half inches from each side of a stairway. Other nonstructural projections such as trim and similar decorative features may project into the required width one and one-half inches on each side.

5.55(3) Rise and run. The rise of every step in a stairway shall be not less than four inches nor greater than seven and one-half inches. Except as permitted in subrule 5.55(6) the run shall be not less than ten inches as measured horizontally between the vertical planes of the furthestmost projection of adjacent treads. Except as permitted in subrule 5.55(4) the largest tread run within any flight of stairs shall not exceed the smallest by more than three-eighths inch. The greatest riser height within any flight of stairs shall not exceed the smallest by more than three-eighths inch.

## EXCEPTIONS:

1. Private stairways serving an occupant load of less than ten and stairways to unoccupied roofs may be constructed with an eight-inch maximum rise and nine-inch minimum run.

2. Where the bottom riser adjoins a sloping public way, walk or driveway having an established grade and serving as a landing, a variation in height of the bottom riser of not more than three inches in every three feet of stairway width is permitted.

5.55(4) Circular stairways. Circular stairways may be used as an exit, provided the minimum width of run is not less than ten inches and the smaller radius is not less than twice the width of the stairway. The largest tread width or riser height within any flight of stairs shall not exceed the smallest by more than three-eighths inch.

5.55(5) Landings. Every landing shall have a dimension measured in the direction of travel equal to the width of the stairway. Such dimension need not exceed four feet when the stair has a straight run. A door swinging over a landing shall not reduce the width of the landing to less than one half its required width at any position in its swing nor by more than seven inches when fully open.

EXCEPTION: Stairs serving an unoccupied roof are exempt from these provisions.

5.55(6) Basement stairways. When a basement stairway and a stairway to an upper story terminate in the same exit enclosure, an approved barrier shall be provided to prevent persons from continuing on into the basement. Directional exit signs shall be provided as specified in this chapter.

5.55(7) Distance between landings. There shall be no more than twelve feet vertically between landings.

## 5.55(8) Handrails.

a. Stairways shall have handrails on each side, and every stairway required to be more than eighty-eight inches in width shall be provided with not less than one intermediate handrail for each eighty-eight inches of required width. Intermediate handrails shall be spaced approximately equal across the entire width of the stairway. Handrails shall be able to withstand fifty pounds per lineal foot both horizontally and vertically.

## EXCEPTIONS:

1. Stairways forty-four inches or less in width and stairways serving one individual dwelling unit in residential occupancies may have one handrail provided on the open side or sides.

2. Private stairways thirty inches or less in width may have handrails on one side only.

b. Handrails shall be placed not less than thirty inches nor more than thirty-four inches above the nosing of treads. They shall be continuous the full length of the stairs and except for private stairways at least one handrail shall extend not less than six inches beyond the top and bottom riser. Ends shall be returned or shall terminate in newel posts or safety terminals.

The handgrip portion of handrails shall be not less than one and one-fourth inches nor more than two inches in cross-sectional dimension or the shape shall provide an equivalent gripping surface. The handgrip portion of handrails shall have a smooth surface with no sharp corners.

Handrails projecting from a wall shall have a space of not less than one and one-half inches between the wall and the handrail.

5.55(9) Guardrails or guards. All unenclosed floor and roof openings, open and glazed sides of landings and ramps, balconies or porches which are more than thirty inches above grade or floor below, and roofs used for other than service of the building shall be protected by a guardrail. Guardrails shall not be less than forty-two inches in height. Open guardrails and stair railings shall have intermediate rails or an ornamental pattern such that a sphere six inches in diameter cannot pass through. The height of stair railings on open sides may be as specified for handrails in subrule 5.55(8) in lieu of providing a guardrail. Ramps shall, in addition, have handrails as required by 5.55(8) or the state building code, division 7 (handicapped accessibility) if applicable.

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**EXCEPTIONS:**

1. Guardrails on a balcony immediately in front of the first row of fixed seats and which are not at the end of an aisle may be twenty-six inches in height.

2. Guardrails need not be provided on the loading side of loading docks.

3. Guardrails need not be provided on the auditorium side of a stage or enclosed platform.

**5.55(10) Exterior stairway protection.** All openings in the exterior wall below or within ten feet, measured horizontally, of an exterior exit stairway serving a building over two stories in height shall be protected by a self-closing fire assembly having a three-fourths-hour fire-protection rating.

**EXCEPTION:** Openings may be unprotected when two separated exterior stairways serve an exterior exit balcony.

**5.55(11) Interior stairway construction.** Interior stairways shall be constructed as specified in rule 5.58(100).

Except when enclosed usable space under stairs is prohibited by subrule 5.58(7), the walls and soffits of the enclosed space shall be protected on the enclosed side as required for one-hour fire-resistive construction.

All required interior stairways which extend to the top floor in any building four or more stories in height shall have, at the highest point of the stair shaft, an approved hatch openable to the exterior not less than sixteen square feet in area with a minimum dimension of two feet.

**EXCEPTION:** The hatch need not be provided on smoke-proof enclosures or on stairways that extend to the roof with an opening onto that roof.

**5.55(12) Exterior stairway construction.** Exterior stairways shall be of noncombustible material except that on steel, iron, masonry, concrete or wood buildings not exceeding two stories in height, they may be of wood not less than two inches in nominal thickness.

Exterior stairways shall not project into yards where protection of openings is required.

Enclosed usable space under stairs shall have the walls and soffits protected on the enclosed side as required for one-hour fire-resistive construction.

**5.55(13) Stairway to roof.** In every building four or more stories in height, one stairway shall extend to the roof surface, unless the roof has a slope greater than four in twelve. See subrule 5.55(11) for roof hatch requirements.

**5.55(14) Headroom.** Every stairway shall have a headroom clearance of not less than six feet six inches. Such clearances shall be measured vertically from a plane parallel and tangent to stairway tread nosings to the soffit above at all points.

**5.55(15) Stairway numbering system.** An approved sign shall be located at each floor level landing in all enclosed stairways of buildings four or more stories in height. The sign shall indicate the floor level, the terminus of the top and bottom of the stairway and the identification of the stairway. The sign shall be located approximately five feet above the floor landing in a position which is readily visible when the door is in the open or closed position. Signs shall conform to the following:

a. The sign shall be a minimum twelve inches x twelve inches.

b. The stairway location shall be placed at the top of the sign in one inch high block lettering with one-fourth-inch stroke. (Stair No. 1 or west stair.)

c. The stairway's upper terminus shall be placed under the stairway identification in one inch high block

lettering with one-fourth inch stroke (roof access or no roof access).

d. The floor level number shall be placed in the middle of the sign in five inch high lettering with three-fourth inch stroke. The mezzanine levels shall have the letter "M" preceding the floor number. Basement levels shall have the letter "B" preceding the floor number.

e. The lower and upper terminus of the stairway shall be placed at the bottom of the sign in one inch high block lettering with one-fourth inch stroke.

f. These signs shall be maintained in an approved manner.

**680—5.56(100) Ramps.**

**5.56(1) General.** Ramps used as exits shall conform to the provisions of this rule and state building code, division 7.

**5.56(2) Width.** The width of ramps shall be as required for stairways.

**5.56(3) Slope.** The slope of ramps required to be accessible to the handicapped shall meet the requirements of the state building code, administrative section, division 7. The slope of other ramps shall not be steeper than one vertical to eight horizontal.

When provided with fixed seating, the main floor of the assembly room of an assembly occupancy may have a slope not steeper than one vertical to five horizontal.

**5.56(4) Landings.** Ramps having slopes steeper than one vertical to fifteen horizontal shall have landings at the top and bottom, and at least one intermediate landing shall be provided for each five feet of rise. Top landings and intermediate landings shall have a dimension measured in the direction of ramp run of not less than five feet.

Doors in any position shall not reduce the minimum dimension of the landing to less than forty-two inches and shall not reduce the required width by more than three and one-half inches when fully open.

**5.56(5) Handrails.** Ramps having slopes steeper than one vertical to fifteen horizontal shall have handrails as required for stairways, except that intermediate handrails shall not be required. Ramped aisles need not have handrails on sides serving fixed seating.

**5.56(6) Construction.** Ramps shall be constructed as required for stairways.

**5.56(7) Surface.** The surface of ramps shall be roughened or shall be of slip-resistant materials.

**680—5.57(100) Horizontal exit.**

**5.57(1) Used as a required exit.** A horizontal exit may be considered as a required exit when conforming to the provisions of this chapter. A horizontal exit shall not serve as the only exit from a portion of the building, and when two or more exits are required, not more than one half of the total number of exits or total exit width may be horizontal exits.

**5.57(2) Openings.** All openings in the two-hour fire-resistive wall which provides a horizontal exit shall be protected by a fire assembly having a fire protection rating of not less than one and one-half hours. Such fire assembly shall be automatic closing upon actuation of a smoke detector.

**5.57(3) Discharge areas.** A horizontal exit shall lead into a floor area having capacity for an occupant load not less than the occupant load served by such exit. The capacity shall be determined by allowing three square feet of net clear floor area per ambulatory occupant and thirty square feet per nonambulatory occupant.

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**680—5.58(100) Stairway, ramp and escalator enclosures.**

**5.58(1) General.** Every interior stairway, ramp or escalator shall be enclosed as specified in this rule.

**EXCEPTIONS:**

1. In other than institutional occupancies, an enclosure will not be required for a stairway, ramp or escalator serving only one adjacent floor and not connected with corridors or stairways serving other floors.

2. Stairs within individual apartments in hotels, apartments, monasteries and convent occupancies need not be enclosed.

3. Stairs in open parking garages, open on two or more sides used exclusively for parking or storage of automobiles need not be enclosed.

4. Completely sprinklered buildings may be unenclosed up to three floors.

**5.58(2)** Used as an exit. Any escalator or moving walk serving as a required exit shall be enclosed in the same manner as an exit stairway.

**EXCEPTION:** In buildings required to have automatic sprinklers throughout, enclosures shall not be required for escalators or moving walks where the top of the opening at each story is provided with a draft curtain and automatic fire sprinklers are installed around the perimeter of the opening within two feet of the draft curtain. The draft curtain shall enclose the perimeter of the unenclosed opening and extend from the ceiling downward at least twelve inches. The spacing between sprinklers shall not exceed six feet.

**5.58(3) Enclosure construction.** Enclosure walls shall be of not less than two-hour fire-resistive construction in buildings more than four stories in height and shall be of not less than one-hour fire-resistive construction elsewhere.

**5.58(4) Openings into enclosures.** There shall be no openings into exit enclosures except exit doorways and openings in exterior walls. All exit doors in an exit enclosure shall be protected by a fire assembly having a fire-protection rating of not less than one hour where one-hour shaft construction is required. Doors shall be maintained self-closing or shall be automatic closing by actuation of an approved smoke detector. The maximum transmitted temperature end point shall not exceed 450° F. above ambient at the end of thirty minutes of the fire exposure.

**5.58(5) Extent of enclosure.** Stairway and ramp enclosures shall include landings and parts of floors connecting stairway flights and shall also include a corridor on the ground floor leading from the stairway to the exterior of the building. Enclosed corridors or passageways are not required from unenclosed stairways. Every opening into the corridor shall comply with the requirements of subrule 5.58(4).

**EXCEPTION:** In office buildings, a maximum of fifty percent of the exits may discharge through a street floor lobby, provided the required exit width is free and unobstructed and the entire street floor is protected with an automatic sprinkler system.

**5.58(6) Barrier.** A stairway in an exit enclosure shall not continue below the grade level exit unless an approved barrier is provided at the ground floor level to prevent persons from accidentally continuing into the basement.

**5.58(7) Use of space under stair.** There shall be no enclosed usable space under stairways in an exit enclosure, nor shall the open space under such stairways be used for any purpose.

**680—5.59(100) Smokeproof enclosures.**

**5.59(1) General.** A smokeproof enclosure shall consist of a vestibule and continuous stairway enclosed from the

highest point to the lowest point by walls of two-hour fire-resistive construction. The supporting frame shall be protected as set forth in fire codes or the provision of the authority having jurisdiction.

In buildings with air-conditioning systems or pressure air supply serving more than one story, an approved smoke detector shall be placed in the return air duct or plenum prior to exhausting from the building or being diluted by outside air. Upon activation the detector shall cause the return air to exhaust completely from the building without any recirculation through the building. Such devices may be installed in each room or space served by a return-air duct.

**5.59(2)** When required. In a building having a floor used for human occupancy which is located more than four stories or sixty-five feet above the lowest level of fire department vehicle access, all of the required exits shall be smokeproof enclosures.

**EXCEPTION:** Smokeproof enclosures may be omitted, provided all enclosed exit stairways are equipped with a barometric dampered relief opening at the top and the stairway supplied mechanically with sufficient air to discharge a minimum of 2500 cubic feet per minute through the relief opening while maintaining a minimum positive pressure of 0.25 inch water column in the shaft relative to atmospheric pressure with all doors closed. Activation of the mechanical equipment shall be in accordance with subrule 5.59(7), paragraph "f".

**5.59(3) Outlet.** A smokeproof enclosure shall exit into a public way or into an exit passageway leading to a public way. The exit passageway shall be without other openings and shall have walls, floors and ceiling of two-hour fire-resistive construction.

**5.59(4) Barrier.** A stairway in a smokeproof enclosure shall not continue below the grade level unless an approved barrier is provided at the ground level to prevent persons from accidentally continuing into the basement.

**5.59(5) Access.** Access to the stairways shall be by way of a vestibule or open exterior exit balcony constructed of noncombustible materials.

**5.59(6) Smokeproof enclosure by natural ventilation.**

1. Doors. When a vestibule is provided, the door assembly into the vestibule shall have a one and one-half-hour fire-resistive rating, and the door assembly from the vestibule to the stairs shall be a smoke and draft control assembly having not less than a twenty-minute fire-protection rating. Doors shall be maintained self-closing or shall be automatic closing by actuation of an approved smoke detector.

When access to the stairway is by means of an open exterior exit balcony, the door assembly to the stairway shall have a one and one-half-hour fire-resistive rating and shall be maintained self-closing or shall be automatic closing by actuation of an approved smoke detector.

2. Open air vestibule. The vestibule shall have a minimum dimension of forty-four inches in width and seventy-two inches in direction of exit travel. The vestibule shall have a minimum of sixteen square feet of opening in a wall facing an exterior court, yard or public way at least twenty feet in width.

**5.59(7) Smokeproof enclosure by mechanical ventilation.**

a. Doors. The door assembly from the building into the vestibule shall have a one and one-half-hour fire-resistive rating and the door assembly from the vestibule to the stairway shall be a smoke and draft control assembly having not less than a twenty-minute fire-resistive rating. The door to the stairways shall be provided with a drop-sill or other provision to minimize the air leakage. The doors shall

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

be automatic closing by actuation of an approved smoke detector or in the event of a power failure.

b. Vestibule size. Vestibules shall have a minimum dimension of forty-four inches in width and seventy-two inches in direction of exit travel.

c. Vestibule ventilation. The vestibule shall be provided with not less than one air change per minute, and the exhaust shall be one hundred-fifty percent of the supply. Supply air shall enter and exhaust air shall discharge from the vestibule through separate tightly constructed ducts used only for that purpose. Supply air shall enter the vestibule within six inches of the floor level. The top of the exhaust register shall be down from the top of the smoke trap and shall be entirely within the smoke trap area. Doors, when in the open position, shall not obstruct duct openings. Duct openings may be provided with controlling dampers if needed to meet the design requirements but are not otherwise required.

d. Smoke trap. The vestibule ceiling shall be at least twenty inches higher than the door opening into the vestibule to serve as a smoke and heat trap and to provide an upward moving air column. The height may be decreased when justified by engineering design and field testing.

e. Stair shaft air movement system. The stair shaft shall be provided with a dampered relief opening at the top and supplied mechanically with sufficient air to discharge a minimum of 2500 cubic feet per minute through the relief opening while maintaining a minimum positive pressure of 0.05 inch of water column in the shaft relative to atmosphere with all doors closed and a minimum of 0.10 inch water column difference between the stair shaft and the vestibule.

f. Operation of ventilating equipment. The activation of the ventilating equipment shall be initiated by an approved smoke detector installed outside the vestibule door in an approved location. The activation of the closing device on any door shall activate the closing devices on all doors of the smokeproof enclosure at all levels. When the closing device for the stair shaft and vestibule doors is activated by an approved smoke detector or power failure, the mechanical equipment shall operate at the levels specified in paragraphs "c" and "e".

g. Standby power. Standby power for mechanical ventilation equipment shall be provided by an approved self-contained generator set to operate whenever there is a loss of power in the normal house current. The generator shall be in a separate room having a minimum one-hour fire-resistive occupancy separation and shall have a minimum fuel supply adequate to operate the equipment for two hours.

h. Acceptance testing. Before the mechanical equipment is accepted by the authority having jurisdiction, it shall be tested to confirm that the mechanical equipment is operating in compliance with these requirements.

i. Emergency lighting. The stair shaft and vestibule shall be provided with emergency lighting. A standby generator which is installed for the smokeproof enclosure mechanical ventilation equipment may be used for such stair shaft and vestibule power supply.

**680—5.60(100) Exit courts.**

5.60(1) General. Every exit court shall discharge into a public way or exit passageway.

5.60(2) Width. Exit court minimum widths shall be determined in accordance with provisions based on the occupant load and such required width shall be unobstructed to a height of seven feet except for projections

permitted in corridors by this chapter. The minimum exit court width shall be not less than forty-four inches.

When the width is reduced from any cause, the reduction shall be effected gradually by a guardrail at least three feet in height and making an angle of not more than thirty degrees with the axis of the exit court.

5.60(3) Number of exits. Every exit court shall be provided with exits as determined by this chapter.

5.60(4) Construction and openings. When an exit court serving a building or portion thereof having an occupant load of ten or more is less than ten feet in width, the exit court walls shall be a minimum of one-hour fire-restrictive construction for a distance of ten feet above the floor of the court and all openings therein shall be protected by fire assemblies having a fire-protection rating of not less than three-fourths hour.

**680—5.61(100) Exit passageways.**

5.61(1) Construction and openings. The walls of exit passageways shall be without openings other than required exits and shall have walls, floors and ceilings of the same period of fire resistance as required for the walls, floors and ceilings of the buildings served with a minimum of one-hour fire-resistive construction. Exit openings through the enclosing walls of exit passageways shall be protected by fire assemblies having a three-fourths-hour fire-protection rating.

5.61(2) Detailed requirements. Except for construction and opening protection as specified in subrule 5.61(1) above, exit passageways shall comply with the requirements for corridors as specified in rule 5.54(100).

**680—5.62(100) Exit illumination.**

5.62(1) General. Except within individual dwelling units, guest rooms and sleeping rooms, exits shall be illuminated at any time the building is occupied with light having intensity of not less than one foot-candle at floor level.

EXCEPTION: In auditoriums, theaters, concert or opera halls and similar assembly uses, the illumination at floor level may be reduced during performance to not less than 0.2 foot-candle.

Fixtures required for exit illumination shall be supplied from separate circuits or sources of power where these are required by subrule 5.62(2).

**5.62(2) Power supply.**

a. Separate branch circuits. The power supply for exit illumination shall be provided by two separate branch circuits of the normal premises wiring system, unless an emergency system is installed, where the occupant load served by the exiting system exceeds the following:

- (1) One hundred in both medium and high hazard occupancies and in hotels and apartment occupancies.
- (2) Fifty in institutional occupancies.
- (3) Three hundred in all other occupancies.

One of the required circuits shall supply only fixtures used for exit illumination or exit signs. The other circuit may supply current to other outlets.

5.62(3) Emergency power supply. The power supply for exit illumination shall normally be provided by the premises wiring system. In the event of its failure, illumination shall be automatically provided from an emergency system where the occupant load served by the exiting system exceeds fifty.

EXCEPTION: Churches with an occupancy of three hundred or less, used exclusively for religious worship, shall not be required to have emergency lighting.

Emergency systems shall be supplied from an approved rechargeable system or an on-site generator and the sys-

## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

tem shall be installed in accordance with the requirements of the electrical code.

**680—5.63(100) Exit signs.**

**5.63(1)** Where required. Exit signs shall be installed at required exit doorways and where otherwise necessary to clearly indicate the direction of egress when the exit serves an occupant load of fifty or more.

EXCEPTION: Main exterior exit doors which obviously and clearly are identifiable as exits need not be signed when approved by the authority having jurisdiction.

**5.63(2)** Graphics. The color and design of lettering, arrows and other symbols on exit signs shall be in high contrast with their background. Words on the sign shall be in block letters six inches in height with a stroke of not less than three-fourths inch.

**5.63(3)** Illumination. Signs shall be approved internally illuminated by not less than two electric lamps.

**5.63(4) Power supply.**

a. Separate branch circuits. When separate branch circuits are required for exit illumination by subrule 5.62(2) current supply to one of the lamps for exit signs shall be from a circuit having outlets only for other exit signs or exit illumination. Power to the other lamp shall be from a separate circuit that may supply other outlets.

b. Separate sources of power. When separate sources of power are required for exit illumination by subrule 5.62(3), power to one of the lamps for exit signs shall be from storage batteries or an on-site generator set and the system shall be installed in accordance with the National Electrical Code and National Fire Protection Association Standard 70, latest edition.

**680—5.64(100) Aisles.**

**5.64(1)** General. Aisles leading to required exits shall be provided from all portions of the buildings.

**5.64(2)** Width. Aisle widths shall be provided in accordance with the following:

1. In areas serving employees only, the minimum aisle width may be twenty-four inches but not less than the width required by the number of employees served.

2. In public areas of mercantile, office, plant and workshop occupancies, and in assembly occupancies without fixed seats, the minimum clear aisle width shall be thirty-six inches where tables, counter, furnishings, merchandise or other similar obstructions are placed on one side of the aisle only and forty-four inches where such obstructions are placed on both sides of the aisle.

3. In assembly occupancies with fixed seats.

a. With standard seating, every aisle shall be not less than three feet when serving seats on only one side and not less than forty-two inches wide when serving seats on both sides. Such minimum width shall be measured at the point furthest from the exit, cross aisle or foyer and such minimum width shall be increased by one and one-half inches for each five feet of length toward the exit, cross aisle or foyer.

b. With continental seating as specified in rule 5.65(100) side aisles shall be provided and be not less than forty-four inches in width.

**5.64(3)** Distances to nearest exit. In areas occupied by seats and in assembly occupancies without seats, the line of travel to an exit door by an aisle shall be not more than one hundred fifty feet. Such travel distance may be increased to two hundred feet if the building is provided with an approved automatic sprinkler system.

**5.64(4)** Aisle spacing. With standard seating, aisles shall be so located that there will be not more than six intervening seats between any seat and the nearest aisle.

With continental seating, the number of intervening seats may be increased provided the seating configuration conforms with the requirements specified in rule 5.65(100).

When benches or pews are used, the number of seats shall be based on one person for each eighteen inches of length of pew or bench.

**5.64(5)** Cross aisles. Aisles shall terminate in a cross aisle, foyer or exit. The width of the cross aisle shall be not less than the sum of the required width of the widest aisle plus fifty percent of the total required width of the remaining aisles leading thereto. In assembly and education occupancies, aisles shall not have a dead end greater than twenty feet in length.

**5.64(6)** Vomitories. Vomitories connecting the foyer or main exit with the cross aisles shall have a total width not less than the sum of the required width of the widest aisle leading thereto plus fifty percent of the total required width of the remaining aisles leading thereto.

**5.64(7)** Slope. The slope portion of aisles shall be not steeper than one vertical in eight horizontal, except as permitted in subrule 5.56(3).

**5.64(8)** Steps. Steps shall not be used in an aisle when the change in elevation can be achieved by a slope conforming to subrule 5.64(7). A single step or riser shall not be used in any aisle. Steps in aisles shall extend across the full width of the aisle and shall be illuminated. Treads and risers in such steps shall comply with subrule 5.55(3).

**680—5.65(100) Seat spacing.**

**5.65(1)** Standard seating. With standard seating, the spacing of rows of seats shall provide a space of not less than twelve inches from the back of one seat to the front of the most forward projection of the seat immediately behind it as measured horizontally between vertical planes.

**5.65(2)** Continental seating. The number of seats per row for continental seating may be increased subject to all of the following conditions:

a. The spacing of unoccupied seats shall provide a clear width between rows of seats measured horizontally as follows (automatic or self-rising seats shall be measured in the seat-up position, other seats shall be measured in the seat-down position):

1. Eighteen inches between rows for 1 to 18 seats
2. Twenty inches between rows for 19 to 35 seats
3. Twenty-one inches between rows for 36 to 45 seats
4. Twenty-two inches between rows for 46 to 59 seats
5. Twenty-four inches between rows for 60 seats or more.

b. Exit doors shall be provided along each side aisle of the row of seats at the rate of one pair of doors for each five rows of seats.

c. Each pair of exit doors shall provide a minimum clear width of sixty-six inches discharging into a foyer, lobby or the exterior of the building.

d. There should be not more than five seat rows between pairs of doors.

**5.66 to 5.99** Reserved.

ITEM 2. Rescind rules 680—5.100(103), 5.101(103), 5.102(103), 5.150(103), 5.151(103), 5.152(103), 5.153(103) and 5.200(103), and insert in lieu thereof the following rules:

## LIFE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

**680—5.100(100) Exits and escapes.**

**5.100(1)** General. All buildings must meet the requirements set forth in General Rules and Regulations for Means of Exit with the following exceptions permit-



## PUBLIC SAFETY DEPARTMENT[680] (cont'd)

ted for existing buildings. The purpose of rules 5.100(100) to 5.105(100) is to provide a reasonable degree of safety to persons occupying existing buildings that do not conform with the minimum requirements of this code by providing for reasonable and equivalent safety.

EXCEPTION: One- and two-family dwellings, private garages, carports, sheds and agricultural buildings.

**5.100(2) Effective date.** Existing buildings will be classified as those constructed prior to the effective date of these rules.

**5.100(3) Change of occupancy classification.** A change from one occupancy classification to another, in any building or structure, whether necessitating a physical alteration or not, may be made only if such building or structure conforms with the requirements of rules applying to new buildings or the proposed new use.

**5.100(4) Conditions legally in existence with Iowa Code chapter 103** at the time of adoption of these rules shall be permitted to continue unless the local authority determines such conditions constitute a distinct hazard to life or property.

Those buildings, structures or facilities not meeting these rules or not legally in existence with chapter 103 at the time of the adoption of these rules shall within eighteen months after the effective date of these rules submit plans to the local authority and within eighteen months thereafter complete the work.

**5.100(5)** In existing buildings, where compliance would be difficult or would result in unnecessary hardship, the state fire marshal may grant exceptions to these rules but only when it is clearly evident that reasonable and equivalent safety is thereby secured. Existing buildings and structures shall not be occupied or used in violation of the provisions of these rules.

#### 680—5.101(100) Exits.

**5.101(1) Number of exits.** Every floor above or below the first story used for human occupancy shall have access to at least two separate exits, one of which may be an exterior fire escape complying with subrule 5.101(4).

An exit ladder device when used in lieu of a fire escape shall conform with the following:

- a. Serves an occupant load of ten or less or a single dwelling unit or guest room.
- b. The building does not exceed three stories in height.
- c. The access is adjacent to an opening as specified for emergency egress or rescue or from a balcony.
- d. Shall not pass in front of any building opening below the unit being served.
- e. The availability of activating the device for the ladder is accessible only from the opening or balcony served.
- f. So installed that it will not cause a person using it to be within six feet of exposed electrical wiring.

**5.101(2) Stair construction.** All required stairs shall have a minimum run of nine inches and a maximum rise of eight inches and shall have a minimum width of thirty inches exclusive of handrails. Every stairway shall have at least one handrail. A landing having a minimum thirty inch run in the direction of travel shall be provided at each point of access to the stairway.

EXCEPTION: Fire escapes as provided for in this rule. Exterior stairs shall be of noncombustible construction.

EXCEPTION: On buildings of types III, IV, V, provided the exterior stairs are constructed of wood not less than two inch nominal thickness. See Table #5B.

**5.101(3) Corridors.** Corridors serving as a required exit for an occupant load of thirty or more shall have walls and ceilings of not less than one-hour fire-resistive construction as required by this chapter.

Existing walls surfaced with wood lath and plaster in good condition or one-half inch gypsum wallboard or openings with fixed wired glass set in steel frames are permitted for corridor walls and ceilings and occupancy separations when approved. Doors opening into such corridors shall be protected by twenty minutes fire assemblies or solid wood doors not less than one and three-fourth inch thick. Where the existing frame will not accommodate the one and three-fourth inch thick door, a one and three-eighth inch thick solid bonded wood core door or equivalent insulated steel door shall be permitted. Doors shall be self-closing or automatic-closing by smoke detection. Transoms and openings other than doors from corridors to rooms shall comply with subrule 5.54(8) or shall be covered with a minimum of five-eighth inch gypsum wallboard or equivalent material on both sides. Transoms shall be fixed in a closed position.

EXCEPTION: Existing corridor walls, ceilings and opening protection not in compliance with the above may be continued when such buildings are protected with an approved automatic sprinkler system throughout. Such sprinkler system may be supplied from the domestic water system if it is of adequate volume and pressure.

#### 5.101(4) Fire escapes.

1. Existing fire escapes which, in the opinion of the authority having jurisdiction, comply with the intent of this rule may be used as one of the required exits. The location and anchorage of fire escapes shall be of approved design and construction.

2. Fire escapes shall comply with the following:

- a. Access from a corridor shall not be through an intervening room.
- b. All openings within ten feet shall be protected by three-fourth-hour fire assemblies. When located within a recess or vestibule, adjacent enclosure walls shall be of not less than one-hour fire-resistive construction.
- c. Egress from the building shall be by a clear opening having a minimum dimension of not less than twenty-nine inches. Such openings shall be openable from the inside without the use of a key or special knowledge or effort. The sill of an opening giving access shall be not more than thirty inches above the floor of the building or balcony.
- d. Fire escape stairways and balconies shall support the dead load plus a live load of not less than one hundred pounds per square foot and shall be provided with a top and intermediate handrail on each side. The pitch of the stairway shall not exceed sixty degrees with a minimum width of eighteen inches. Treads shall be not less than four inches in width and the rise between treads shall not exceed ten inches. All stair and balcony railings shall support a horizontal force of not less than fifty pounds per lineal foot of railings.

e. Balconies shall be not less than forty-four inches in width with no floor opening other than the stairway opening greater than five-eighth inch in width. Stairway openings in such balconies shall be not less than twenty-two inches by forty-four inches. The balustrade of each balcony shall be not less than thirty-six inches high with not more than nine inches between balusters.

f. Fire escapes shall extend to the roof or provide an approved gooseneck ladder between the top floor landing

**PUBLIC SAFETY DEPARTMENT[680] (cont'd)**

and the roof when serving buildings four or more stories in height having roofs with less than 4:12 slope. Approved gooseneck ladders shall be designed and connected to the building to withstand a horizontal force of one hundred pounds per lineal foot; each rung shall support a concentrated load of five hundred pounds placed anywhere on the rung. All ladders shall be at least fifteen inches wide, located within twelve inches of the building and shall be placed flatwise relative to the face of the building. Ladder rungs shall be at least three-fourth inch in diameter and shall be located twelve inches on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of thirty inches by thirty-three inches.

g. The lowest balcony shall be not more than eighteen feet from the ground. Fire escapes shall extend to the ground or be provided with counterbalanced stairs reaching to the ground.

h. Fire escapes shall not take the place of stairways required by the codes under which the building was constructed.

i. Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order.

j. All fire escapes shall have walls or guards on both sides, with handrails not less than thirty inches nor more than forty-two inches high measured vertically from a point on the stair tread one inch back from the leading edge.

k. All supporting members for balconies and stairs that are in tension and are fastened directly to the building shall pass through the wall and be securely fastened on the opposite side or they shall be securely fastened to the framework of the building. Where opposite metal members pass through walls, they shall be protected effectively against corrosion.

l. Tread construction must be solid, with one-half inch diameter perforations permitted.

**5.101(5) Exit and fire escape signs.** Exit signs shall be provided as required by rule 5.62(100).

EXCEPTION: The use of existing exit signs may be continued when approved by the authority having jurisdiction.

All doors or windows providing access to a fire escape shall be provided with fire escape signs.

**680—5.102(100) Enclosure of vertical shafts.**

**5.102(1) Interior vertical shafts, including but not**

limited to stairways, elevator hoistways, service and utility shafts, shall be enclosed by a minimum of one-hour fire-resistive construction. All openings into such shafts shall be protected with one-hour fire assemblies which shall be maintained self-closing or be automatic closing by smoke detection. All other openings shall be fire protected in an approved manner.

**EXCEPTIONS:**

1. An enclosure will not be required for opening serving only one adjacent floor, unless otherwise required by specific occupancies.

2. Stairways need not be enclosed in a continuous vertical shaft if each story is separated from other stories by one-hour fire-resistive construction or approved wired glass set in steel frames.

3. Vertical openings need not be protected if the building is protected by an approved automatic sprinkler system, and does not exceed three stories.

**5.102(2) Reserved.**

**680—5.103(100) Standpipes.**

**5.103(1)** Any buildings over four stories in height shall be provided with an approved Class I or III standpipe system.

**5.103(2) Reserved.**

**680—5.104(100) Separation of occupancies.**

**5.104(1)** Occupancy separations shall be provided as required by the authority having jurisdiction, with a minimum of one hour either vertically or horizontally or both. When approved by the authority having jurisdiction, existing wood lath and plaster in good condition or ½-inch gypsum wallboard may be acceptable where one-hour occupancy separations are required.

**5.104(2) Reserved.**

**680—5.105(100) Dead-end corridors.**

**5.105(1)** In existing buildings, when correction of a dead-end corridor is impractical, dead-end corridor length of specific occupancies may be extended, provided additional smoke detection and safe-guards are installed, as determined by the authority having jurisdiction. Occupancy and dead end corridor lengths are as follows:

Residential	35 feet	Business (Office)	50 feet
Mercantile	50 feet	Industrial	50 feet

**5.105(2) Reserved.**

**5.106 to 5.229 Reserved.**

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TABLE NO. 5 - A - MINIMUM EGRESS AND ACCESS REQUIREMENTS

USE	MINIMUM OF TWO EXITS OTHER THAN ELEVATORS ARE REQUIRED WHERE NUMBER OF OCCUPANTS IS AT LEAST	OCCUPANT LOAD FACTOR
1. Aircraft Hangars (no repair)	10	500
2. Auction Rooms	30	7
3. Assembly Areas, Concentrated Use (without fixed seats) Auditoriums Bowling Alleys (Assembly areas) Churches and Chapels Dance Floors Lodge Rooms Reviewing Stands Stadiums	50	7
4. Assembly Areas, Less-concentrated Use Conference Rooms Dining Rooms Drinking Establishments Exhibit Rooms Gymnasiums Lounges Stages	50	15
5. Children's Homes and Homes for the Aged	6	80
6. Classrooms	50	20
7. Dormitories	10	50
8. Dwellings	10	300
9. Garage, Parking	30	200
10. Hospitals and Sanitariums - Nursing Homes	6	80
11. Hotels and Apartments	10	200
12. Kitchen - Commercial	30	200
13. Library Reading Room	50	50
14. Locker Rooms	30	50
15. Mechanical Equipment Room	30	300
16. Nurseries for Children (Day-care)	7	35
17. Offices	30	100
18. School Shops and Vocational Rooms	50	50
19. Skating Rinks	50	50 on the skating area; 15 on the deck
20. Stores - Retail Sales Rooms Basement Ground Floor Upper Floors	7 50 10	20 30 50
21. Swimming Pools	50	50 for the pool area; 15 on the deck
22. Warehouses	30	300
23. Lobby Accessory to Assembly Occupancy	50	7
24. Malls	50	30
25. All others	50	100

TABLE NO.5 -B- TYPES OF CONSTRUCTION - FIRE-RESISTIVE REQUIREMENTS

(In Hours)  
For Details see Chapters under Occupancy and Types of Construction

BUILDING ELEMENT	TYPE I		TYPE II		TYPE III		TYPE IV		TYPE V	
	NONCOMBUSTIBLE				COMBUSTIBLE					
	Fire-Resistive	Fire-Resistive	1-Hr.	N	1-Hr.	N	H.T.	1-Hr.	N	
Exterior Bearing Walls	4	4	1	N	4	4	4	1	N	
Interior Bearing Walls	3	2	1	N	1	N	1	1	N	
Exterior Nonbearing Walls	4	4	1	N	4	4	4	1	N	
Structural Frame <sup>1</sup>	3	2	1	N	1	N	1 or H.T.	1	N	
Partitions - Permanent	1 <sup>2</sup>	1 <sup>2</sup>	1 <sup>2</sup>	N	1	N	1 or H.T.	1	N	
Shaft Enclosures	2	2	1	1	1	1	1	1	1	
Floors	2	2	1	N	1	N	H.T.	1	N	
Roofs	2	1	1	N	1	N	H.T.	1	N	

N—No general requirements for fire resistance H.T.—Heavy Timber

<sup>1</sup>Structural frame elements in the exterior wall shall be protected against external fire exposure as required for exterior bearing walls or the structural frame, whichever is greater.

<sup>2</sup>Fire retardant treated wood may be used in the assembly, provided fire-resistance requirements are maintained.

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## ARC 3396

### SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 217.6, rules of the Department of Social Services appearing in the IAC relating to departmental organization and procedures (chapter 1) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB September 1, 1982, as ARC 3166. Because of organizational changes, the rules reflecting the responsibility of the various departmental units are being updated.

1.1(4) and 1.3(4) were reworded. In 1.3(5), paragraphs "a" to "d" were reworded and the location added in paragraphs "b" and "d". In 1.3(7), another name for the institution was added to paragraph "b" and locations added in paragraphs "f" and "g". 1.3(8) was reworded.

These rules are intended to implement Iowa Code section 17A.3(1)"a".

These rules shall become effective January 1, 1983.

Rules 770—1.1(17A), 770—1.3(17A), and 770—1.4(17A) are rescinded and the following are inserted in lieu thereof.

**770—1.1(17A) Commissioner.** All operations of the department of social services are, by law, the responsibility of the commissioner. The commissioner's responsibilities include:

**1.1(1)** The formulation of department policy within the limits set forth in the statutes of the state of Iowa;

**1.1(2)** Establishing standards of performance for all divisions and offices of the department;

**1.1(3)** Maintaining liaison with the governor, other agencies of the state, and public and private agencies outside of state government on behalf of the department;

**1.1(4)** Fully informing the public of department programs;

**1.1(5)** Serving as principal agent for the department in all legal matters and development of legislative programs to support and improve agency efforts.

**770—1.3(17A) Organization at state level.**

**1.3(1)** The commandant has responsibility for veterans' services for the department including the Iowa Veterans Home, Marshalltown, which receives honorably discharged veterans for care who have served in the armed forces of the United States and spouses or surviving spouses of qualified veterans if they meet the admission criteria as adopted by the Iowa department of social services.

**1.3(2)** The assistant commissioner, who has been assigned the responsibility for the division of administration, shall provide primary support and monitoring services to all line elements of the department in the general area of data processing, statistical reporting, purchase of service, accounting/budgeting, personnel and training, office support services, public information and communications.

**1.3(3)** The assistant commissioner, who has been assigned the responsibility for the division of organizational planning, shall provide support services to line elements of the department in areas of planning, administrative policy and procedures, grants, property management, and federal/state co-ordination.

**1.3(4)** The director of the division of inspector general shall provide support to the line elements and other support elements of the department in the areas of evaluations, audits, quality control, appeals, investigations, affirmative action, and legal services.

**1.3(5)** The director of the division of mental health/mental retardation/developmental disabilities directs the administration of the following institutions and facilities:

a. Cherokee Mental Health Institute.

b. Clarinda Mental Health Institute, located on the grounds of the Clarinda Treatment Complex Institute Campus.

c. Independence Mental Health Institute.

d. Mount Pleasant Mental Health Institute, located on the grounds of the Mount Pleasant Treatment Center Complex.

e. Glenwood State Hospital-School.

f. Woodward State Hospital-School.

g. Departmental relationship with county care facilities, certain county officers, and organizations relating to mental health, mental retardation, and developmental disabilities.

**1.3(6)** The director of community programs directs the delivery of departmental community based programs and services. The division is responsible for the following institutions and programs:

a. The state juvenile home, Toledo, which is for the care of children who have been removed from their own homes by the court.

b. The training school, Eldora, which provides care for legally designated juvenile delinquents.

c. Medical service programs including Title XIX (MEDICAID).

d. Assistance payments and food programs.

e. The development and direction of all social service programs for children and their families, licensing, day care, child development, and services to adults.

**1.3(7)** The director of the division of adult corrections shall be responsible for the following institutions and facilities:

a. The Iowa Correctional Institution for Women at Mitchellville which houses women convicted of aggravated misdemeanors and felonies within the state.

b. The Men's Medium Security Correctional Facility at Rockwell City, (also called North Central Correctional Facility), which houses adult males within one year of release.

c. The Iowa State Men's Reformatory, Anamosa, which houses adult males convicted of felonies and classified medium security.

d. The Iowa State Penitentiary, Fort Madison, which houses all felons classified as maximum security.

e. The Iowa Security and Medical Facility, Oakdale, which conducts psychiatric evaluations for the courts, correctional institutions, the parole board, and provides psychiatric care to residents of all of Iowa's correctional programs.

f. The Mount Pleasant Medium Security Facility, located on the grounds of the Mount Pleasant Treatment Center Campus, which houses adult males within eighteen months of release.

g. The Correctional Treatment Unit, located on the Clarinda Treatment Complex Institute Campus, which generally houses socially inadequate and mentally retarded inmates.

## SOCIAL SERVICES DEPARTMENT[770] (cont'd)

h. John Bennett Facility, Fort Madison, which is classified medium security.

i. Prison farms at Fort Madison which are classified minimum security.

j. The Riverview Release Center, Newton, which houses minimum custody adults nearing completion of sentence.

k. The Luster Heights Camp, Harpers Ferry, which is administered through the State Reformatory at Anamosa, is a conservation commission camp where inmates from institutions in Iowa are placed who require a minimum security setting.

l. Prison industries.

m. Work release centers, which house inmates in the process of leaving a correctional institution on work release.

n. Jail inspection.

o. Parole services.

p. Community based services include pretrial release, presentence investigation, probation supervision, and residential facilities.

1.3(8) The director of the division of field operations shall provide primary support services to all line elements of the department in the areas of child support and foster care collections and volunteer services. The division is also responsible for the management of local offices of the department aligned with district subdivisions. The division delivers community based programs and services through these offices.

#### 770—1.4(17A) Organization at local level.

1.4(1) The department's community service delivery system functions through district offices, each headed by an administrator. Each district system is composed of local offices strategically located for purposes of client accessibility.

1.4(2) The district administrator shall be responsible for managing all department offices at the local level and directing all local and district personnel within the geographic boundaries of the district; and for implementing policies and procedures, within departmental priorities, to provide effective social services to those persons who need them, and the development of social service resources within the community, human services planning, complaints about local offices, and technical support to local offices. The districts have supervisory responsibilities for protective service investigation, day care licensing, foster care licensing, adoptions, purchase of service, and youth services. District offices are located in major population centers. Persons interested in contacting a district office may inquire at the local office for the location of the one serving their county.

1.4(3) There shall be at least one local office in each county. Local offices are generally located in the county seat in each county, but may be located in the major population center within each county. The local office has the responsibility to implement all financial assistance and human service programs as designated by the department of social services. The local office, in a majority of counties, has the responsibility to administer the county general relief program. Persons interested in the general relief program may inquire at the local office on whether the program is administered in that county.

[Filed 11/5/82, effective 1/1/83]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3397

### SOCIAL SERVICES DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 234.6, the following rules relating to the Federal Surplus Food Program (chapter 73) are hereby adopted. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB September 15, 1982 as ARC 3197. This program provides needy Iowans with surplus foods, donated by the U.S. Department of Agriculture. The department wishes to express its appreciation to the persons who commented on the proposed rules. The process was simplified considerably based on the comments received.

The name of the program was changed throughout the rules to the federal surplus food program. The definition of household was changed. "Then" was added to 770—73.2(234). A residency requirement was added to 770—73.3(234), the determination of household size changed, and the subrules renumbered. Social security and unemployment compensation were removed from the definition of income and the determination of income changed to be based on gross income. The household certification procedure was simplified. The designation of a proxy no longer requires a specific form. The name of the institution application was changed. The rule on quality control was made more general. The rule on appeals was changed to an administrative review.

These rules are intended to implement Iowa Code sections 234.1, 234.6, 234.12, 234.13.

These rules shall become effective January 1, 1983.

#### CHAPTER 73

#### FEDERAL SURPLUS FOOD PROGRAM

#### 770—73.1(234) Definitions.

73.1(1) "Household" means a single individual or group of related or nonrelated individuals, exclusive of boarders, who are not residents of an institution, who prepare food for home consumption.

73.1(2) "Charitable institution" means a facility that is:

a. Public or private, nonprofit, and tax-exempt under the Internal Revenue Code as documented by a letter of exemption; and

b. Organized for charitable or public welfare purposes, and has provided and will continue to provide services at the same address without marked change; and

c. A provider of regular meal services at least once a week on a regular basis. An institution must serve meals rather than redistribute foods in the form donated, or allow clients to prepare their meals individually.

73.1(3) "District co-ordinator" means the person designated by the district administrator to co-ordinate the federal surplus food program in the district.

73.1(4) "Potentially hazardous food" means any food of the type or in a condition that it may spoil and which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth of infectious or toxicogenic microorganisms.

770—73.2(234) Priority of distribution. When federal surplus food is available, it shall first be distributed to eligible needy households in the state and then to adult correctional facilities without rehabilitation programs until all have been served. Any excess food shall then be given to other eligible charitable institutions.

SOCIAL SERVICES DEPARTMENT[770] (cont'd)

**770—73.3(234) Household eligibility.** Household eligibility is determined by household size, income and residence.

**73.3(1) Residence.** Household members shall be residing in the state of Iowa.

**73.3(2) Household size.** Household size is determined by the number of people living in a dwelling, excluding boarders.

**73.3(3) Income eligibility.** Unless excluded, all earned and unearned income of the household shall be counted in determining eligibility.

a. Income defined. Income means all income received by an individual from sources identified by the U.S. Census Bureau in computing median income and includes money wages or salary, net income from nonfarm self-employment, net income from farm self-employment, dividends, interest, income from estates or trusts, net rental income and royalties, public assistance or welfare payments, pensions and annuities, workers' compensation, alimony, child support, and veterans' pensions.

b. Determination of income. Earned or unearned income shall be the gross monthly income. Biweekly income is to be multiplied by 2.15 to determine monthly income. Adjusted gross self-employment income is to be averaged over a twelve-month period. Income received from interest and dividends shall be counted in the month received. The amount of income which stops or starts during the month shall be estimated on the basis of the best information available.

c. Income exclusions. The following income shall be excluded in determining countable income:

(1) Social security, railroad retirement benefits, supplemental security income, or state supplementary assistance.

(2) Unemployment compensation benefits.

(3) Income from minors under sixteen years of age.

d. Income guidelines. Countable income must be at or below the following amounts:

Household Size	Yearly Income	Monthly Income	Weekly Income
1	\$ 8,660	\$ 722	\$167
2	11,510	959	221
3	14,360	1,197	276
4	17,210	1,434	331
5	20,050	1,671	388
6	22,900	1,908	440
7	25,750	2,146	495
8	28,600	2,383	550
For each additional household member add:	2,850	238	55

**770—73.4(234) Notification of available food.** The public will be informed of the availability of food and the location and times of distribution by announcements through local media.

**770—73.5(234) Household certification procedure.** A responsible member of the household or designated proxy shall complete and sign a Declaratory Statement of Eligibility, FP-1102-0, prior to receiving food. The Declaratory Statement of Eligibility declares household residency, size, and income; that the household is not receiving food under this program as part of another household or at another distribution site; acknowledges an understanding of possible prosecution, under current law, for accepting food for which the household may not be eligi-

ble; agrees to co-operate with a quality control review; and indicates an understanding that the food received through this program is not to be sold or exchanged. The household member or proxy may be asked to show some official identification before receiving the food.

**73.5(1) Proxy designation.** When a member of the household cannot be present to complete the Declaratory Statement of Eligibility due to disability, employment, or lack of transportation, the member may authorize a proxy to act on behalf of the household by sending a signed note of authorization with the person acting as a proxy.

**73.5(2) Reserved.**

**770—73.6(234) Distribution to households.** The amount of food distributed to each needy household will be based on the type of food available and the individual household size. A household may request less than the amount of food it is entitled to receive.

**770—73.7(234) Charitable institutions eligibility.** Charitable institutions are eligible for federal surplus food when they meet the eligibility requirements of the regular food distribution program, except that adult correctional facilities do not need to have a rehabilitation program. Charitable institutions not currently certified for the food distribution program may apply for this program on Federal Surplus Food Charitable Institution Application, FP-1108-0.

**770—73.8(234) Distribution requirements.** Federal surplus food will be distributed in communities which have adequate facilities for the type of food available. Facilities for the handling, storage, and distribution of foods shall be such as to properly safeguard against theft, spoilage, and other loss.

**770—73.9(234) Quality control and recoupment.** A sample of households receiving food shall be pulled on regular basis for verification of residency, household size, income, and actual receipt of the surplus food. The department may seek restitution in cash or in kind when a household that receives surplus food is ineligible, has a duplicate issuance, or otherwise improperly receives food.

**770—73.10(234) Administrative review of denial of eligibility.** A household may request an administrative review when its claim for surplus food was denied based on income or residency. Nonavailability of food is not subject to administrative review.

**73.10(1)** When a household wishes review of a denial, it will be referred to the site manager. The site manager will affirm or reverse the denial.

**73.10(2)** When the site manager affirms the denial, the household may request further review by sending a letter requesting review and the site manager's denial to the district administrator within five days of the denial. When more information is needed, the district administrator shall request the information within five days. The district administrator shall review the denial and issue a decision within ten days of the request for the review or the receipt of additional information, whichever is later. When the denial is reversed, the household may take the decision to the distribution site on the next distribution date and receive the food to which it was entitled.

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[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3398

SOCIAL SERVICES  
DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (chapter 76) are hereby amended. The Council on Social Services adopted this rule October 28, 1982.

Notice of Intended Action regarding this rule was published in the IAB August 18, 1982, as ARC 3128. This rule gives the department authority to restrict a recipient to a certain provider or providers of medical care. This will help prevent unnecessary payment for overuse or abuse of the program.

Subrule 76.9(2) was reworded.

This rule is intended to implement Iowa Code section 249A.4.

This rule shall become effective January 1, 1983.

770—chapter 76 is amended by adding the following new rule:

**770—76.9(249A) Recipient lock-in.** In order to promote high quality health care and to prevent harmful practices such as duplication of medical services, drug abuse or overuse, and possible drug interactions, recipients that utilize medical assistance services or items at a frequency or in an amount which is not medically necessary may be restricted (locked-in) to receive services from a designated provider(s).

**76.9(1)** A lock-in or restriction shall be imposed for a minimum of six months with longer restrictions determined on an individual basis.

**76.9(2)** The recipient may select the provider(s) from which services will be received. Other providers of the restricted service will be reimbursed only under circumstances specified in 76.9(3).

**76.9(3)** Payment will be made to provider(s) other than the designated (lock-in) provider(s) in the following instances:

a. Emergency care is required and the designated provider is not available. Emergency care is defined as care necessary to sustain life or prevent a condition which could cause physical disability.

b. The designated provider requires consultation with another provider.

c. The designated provider refers the recipient to another provider.

**76.9(4)** When the recipient fails to choose a provider(s) within thirty days of the request, the local income maintenance worker will select the provider(s) based on previously utilized provider(s) and reasonable access for the recipient.

**76.9(5)** Recipients may change designated provider(s) when a change is warranted, such as when the recipient has moved, the provider no longer participates, or the provider refuses to see the patient. The worker for the recipient shall make the determination when the recipient has demonstrated that a change is warranted.

**76.9(6)** When lock-in is imposed on a recipient, timely and adequate notice shall be sent and an opportunity for a hearing given in accordance with 770—chapter 7.

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## ARC 3399

SOCIAL SERVICES  
DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 249A.4, rules of the Department of Social Services appearing in the IAC relating to medical assistance (chapter 78) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding this rule was published in the IAB September 15, 1982, as ARC 3198. These changes clarify the policies on medical transportation and add a claim form to be completed by the recipient and provider.

"Within the state of Iowa" was added to 78.13(7). 78.13(10) was reworded. A sentence was added to 78.13(11).

This rule is intended to implement Iowa Code section 249A.4.

This rule shall become effective January 1, 1983.

Rule 770—78.13(249A) and subrules 78.13(3) and 78.13(7) are amended to read as follows and new subrules added.

**770—78.13(249A) Transportation to receive medical care.** Payment will be approved for transportation to receive ~~medical care services covered under the program~~ only to the nearest institution or practitioner having appropriate facilities for care of the recipient when the following conditions are met.

**78.13(3)** The type of care is not available in the community in which the recipient resides, or ~~he the~~ recipient has been referred by ~~his the~~ attending physician to a specialist in another community; and

**78.13(7)** When meals and lodging or other travel expenses are required in connection with transportation, *payment will be subject to the same conditions as for a state employee and the maximum amount payable shall not exceed the maximum payable to a state employee for the same expenses in connection with official travel within the state of Iowa.*

**78.13(9)** *Payment will not be made in advance to a recipient or a provider of medical transportation.*

**78.13(10)** *Payment for transportation to receive medical care is made to the recipient.*

**78.13(11)** *Medical Transportation Claim, MA-3022-1, shall be completed by the recipient and the medical provider and submitted to the local office for each trip for which payment is requested. All trips to the same provider in a calendar month may, at the client's option, be submitted on the same form.*

**78.13(12)** *No claim shall be paid if presented after the lapse of three months from its accrual unless it is to correct payment on a claim originally submitted within the required time period.*

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## ARC 3400

SOCIAL SERVICES  
DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 237A.12, rules of the Department of Social Services appearing in the IAC relating to child care centers (chapter 109) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB August 18, 1982, as ARC 3129. These rule changes consist of two parts — several minor changes and rewording of rules and a new section on licensing procedures.

Subrule 109.2(3) was changed to require a date. Parentheses were used in 109.3(6). 109.5(4)“d” was changed to allow smaller mesh screens and “e” was changed to specify room temperature. Grammar was corrected in 109.6(3) “b”. 109.6(5)“d” was reworded. “Touches” was changed to “is adjacent to” in 109.7(3)“d”. Time was lengthened to one hundred twenty days in 109.9(1)“c”. 109.9(4) was changed to specify it also applies to renewals. In 109.9(4) and 109.9(5), “b” and “e” were reworded.

These rules are intended to implement Iowa Code section 237A.12.

These rules shall become effective January 1, 1983.

ITEM 1. Subrule 109.1(3) is amended to read as follows:

**109.1(3)** A nonprofit child care center shall have a governing board which meets at least quarterly ~~and has parent representation~~. The board or operating body shall formulate administrative rules and policies within the objectives and purposes of the center.

ITEM 2. Subrule 109.1(8) is amended to read as follows:

**109.1(8)** The child care center operator, executive or board shall provide and carry out ~~an ongoing~~ a plan for staff training and development.

ITEM 3. Subrule **109.2(2)**, paragraph “d” is rescinded and paragraphs “e” to “h” relettered as paragraphs “d” to “g”.

ITEM 4. Rule **770—109.2(237A)** is amended by adding a new subrule 109.2(3) and renumbering current subrules 109.2(3) to 109.2(5) as 109.2(4) to 109.2(6).

**109.2(3)** Signed and dated immunization cards provided by the state department of health shall be on file for each child enrolled.

ITEM 5. Subrule 109.3(6) is rescinded and the following inserted in lieu thereof:

**109.3(6)** Emergency plans for fire, tornado, and flood (if area is susceptible to floods) shall be written and posted in a conspicuous place. Emergency plan procedures shall be practiced at least once a month for fire and at least quarterly for tornado.

ITEM 6. Subrule 109.5(4) is amended to read as follows:

**109.5(4)** In all centers, the following minimum requirements ~~must~~ shall be met:

a. Ceiling height shall be a minimum of seven feet, six inches for rooms above ground level, and a minimum of seven feet for rooms below ground level.

b. ~~Buildings~~ Rooms not having air conditioners or mechanical ventilation shall have a ratio of window area to floor area of eight percent of floor space or more ~~and all~~

openable windows and doors shall be screened with sixteen mesh wire.

c. All rooms shall be ventilated, without drafts, by means of windows which can be opened or by an air conditioning or mechanical ventilating system.

d. All windows used for ventilation shall be screened with sixteen or smaller mesh wire.

e. Areas used by the children shall be heated when the temperature falls below 68 degrees so room temperature of 68 degrees to 72 degrees is maintained at the floor level. Radiators and hot water pipes shall be screened or insulated to prevent burns.

f. Lighting with a capacity to produce a light intensity of twenty foot candles in the program area shall be provided. ~~All rooms shall be ventilated, without drafts, by means of windows which can be opened or by an air conditioning or ventilating system.~~

ITEM 7. Subrule 109.5(8) is amended to read as follows:

**109.5(8)** One functioning toilet and one lavatory for each fifteen children or fraction thereof, shall be provided in a room with natural or artificial ventilation. Training seats or chairs shall be allowed for children under two years of age. There shall be handwashing facilities with hot and cold running water for child care personnel in rooms where infants are housed or in an adjacent area *other than in the kitchen*.

ITEM 8. Subrule **109.6(3)**, paragraph “b”, fourth unnumbered paragraph, is amended to read as follows:

Lunch or supper— $\frac{1}{2}$  cup of milk; 1 ounce (edible portion as served) of lean meat or an equivalent quantity of a protein food;  $\frac{1}{4}$  cup of vegetables;  $\frac{1}{4}$  cup of fruit *each of two vegetables or  $\frac{1}{4}$  cup each of two fruits, or a combination of each*;  $\frac{1}{2}$  slice of bread or equivalent;  $\frac{1}{2}$  teaspoon of butter or fortified margarine.

ITEM 9. Subrule **109.6(5)**, paragraph “d”, is amended to read as follows:

d. ~~Food service personnel~~ *The person preparing meals* must maintain good personal hygiene and appropriately covered hair while preparing ~~and serving~~ food. Food shall not be handled by cooks with open sores or bandages *on their hands unless wearing protective gloves*.

ITEM 10. Subrule 109.7(3), paragraph “d”, is amended to read as follows:

d. There shall be at least two feet of space on all sides of the cot, bed, or crib except where the cot, bed, or crib ~~touches is adjacent~~ to the wall. *Cribs shall not be stacked one on top of the other, nor attached one to the other except those cribs in use by a licensed center prior to the adoption of this rule.*

ITEM 11. Add the following new rule:

**770—109.9(237A) Licensure procedures.**

**109.9(1)** Application for license.

a. Any adult individual or agency has the right to make application for a license.

b. Requested reports including the fire marshal's report and other information relevant to the licensing determination shall be furnished to the department by the applicant within ninety days of application.

c. Applicants shall be notified of approval or denial within one hundred twenty days of application.

**109.9(2)** License.

a. An applicant showing full compliance with center licensing laws and these rules shall be issued a license for one year.



## SOCIAL SERVICES DEPARTMENT[770] (cont'd)

b. A new license shall be obtained when the center moves, expands, or the facility is remodeled to change licensed capacity.

c. A new license shall be obtained when another adult or agency assumes ownership or legal responsibility for the facility.

**109.9(3) Provisional license.**

a. A provisional license may be issued for a period up to one year when the center does not meet all standards imposed by law or these rules.

b. A provisional license shall be renewable when written plans to bring the center up to standards, giving specific dates for completion of work, are submitted to and approved by the department.

**109.9(4) Denial.** Initial applications or renewals shall be denied when:

a. The applicant does not comply with center licensing laws and these rules in order to qualify for a full or provisional license.

b. The facility is operating in a manner which the department determines impairs the safety, health, sanitation, hygiene, comfort, or well-being of children in care.

c. The director or an employee has been convicted of a crime indicating an inability to operate a children's facility or care for children.

d. The director or an employee has a history of substantiated child abuse or neglect records.

e. There is a substantiated sexual abuse report on the director or a staff member of the facility.

**109.9(5) Revocation and suspension.** A license shall be revoked or suspended if corrective action has not been taken when:

a. The facility does not comply with the licensing requirements imposed by law or these rules.

b. The facility is operating in a manner which the department determines impairs the safety, health, sanitation, hygiene, comfort, or well-being of the children in care.

c. The director or an employee has been convicted of a crime indicating an inability to operate a children's facility or care for children.

d. The director or an employee has a history of substantiated child abuse or neglect reports.

e. There is a substantiated child sexual abuse report on the director or a staff member of the facility.

**109.9(6) Adverse action.**

a. Notice of adverse actions (denial, revocation, or suspension) and the right to appeal the licensing decision shall be given to applicants and licensees in accordance with 770—chapter 7.

b. An applicant or licensee affected by an adverse action may request a hearing by means of a written request directed to the local office, district office, or central office of the department of social services within thirty days after the date the official notice was mailed containing the nature of the denial, revocation, or suspension.

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**ARC 3401****SOCIAL SERVICES DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 234.6, rules of the Department of Social Services appearing in the IAC relating to social services block grant (chapter 131) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB September 15, 1982, as ARC 3199. This rule limits reimbursement of expenses for attending state level advisory committee meetings to voting members or their designated alternates.

These rules are identical to those published under notice.

These rules are intended to implement Iowa Code section 234.6.

These rules shall become effective January 1, 1983.

Rule 770—131.7(234) is amended to read as follows:

**770—131.7(234) Advisory committees.** The department of social services shall maintain and utilize the state and district advisory committees established for providing recommendations on the allocation and uses of federal social services block grant funds during the fiscal year ending June 30, 1983. Persons interested in participating in the district advisory committees may contact the district administrator who will select the members. The statewide advisory committee shall consist of members from each of the district advisory committees. Two members shall represent each of the sixteen social service district offices as constituted prior to March 1982. Costs for meals, lodging, and travel for the state level advisory committee members (or designated alternates attending in the place of members) shall be paid by the department of social services at the same rate as state employees traveling within the state. For a one-day meeting, only one overnight expenditure will be allowed.

[Filed 11/5/82, effective 1/1/83]

[Published 11/24/82]

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**ARC 3402****SOCIAL SERVICES DEPARTMENT[770]**

Pursuant to the authority of Iowa Code section 234.6, rules of the Department of Social Services appearing in the IAC relating to foster care services (chapter 136) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

## SOCIAL SERVICES DEPARTMENT[770] (cont'd)

Notice of Intended Action regarding these rules was published in the IAB September 15, 1982, as ARC 3200. These rules update the definitions needed in the program.

Words omitted in typing were inserted in 136.1(2).

These rules are intended to implement Iowa Code section 234.6.

These rules shall become effective January 1, 1983.

ITEM 1. Subrule 136.1(1) is amended to read as follows:

**136.1(1)** "Department" shall mean the Iowa department of social services and includes the local, county, and regional district offices of the department.

ITEM 2. Subrules 136.1(2) and 136.1(4) are rescinded and the following inserted in lieu thereof:

**136.1(2)** "District administrator" shall mean the department employee responsible for managing department offices and personnel within the district and for implementing policies and procedures of the department.

**136.1(4)** Reserved.

[Filed 11/5/82, effective 1/1/83]

[Published 11/24/82]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3403

SOCIAL SERVICES  
DEPARTMENT[770]

Pursuant to the authority of Iowa Code section 217.6 and 1982 Iowa Acts, chapter 1259; rules of the Department of Social Services appearing in the IAC relating to the child abuse prevention program (chapter 146) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB August 18, 1982, as ARC 3108. These rules provide procedures for the department to contract with an organization to administer the program and for the contractor to solicit and select project proposals, to interact with the advisory council, and to monitor projects.

146.2(2) was reworded.

These rules are intended to implement 1982 Iowa Acts, chapter 1259.

These rules shall become effective December 29, 1982.

770—Chapter 146 filed emergency is rescinded and the following inserted in lieu thereof:

## CHAPTER 146

## CHILD ABUSE PREVENTION PROGRAM

770—146.1(69GA, ch1259) Definitions.

**146.1(1)** "Advisory council" or "council" means the child abuse prevention program advisory council created by 1982 Iowa Acts, chapter 1259.

**146.1(2)** "Child abuse prevention program" or "program" means that program established by 1982 Iowa Acts,

chapter 1259. Use of either term in the context of this chapter refers to the program as a whole rather than individual projects funded under the program.

**146.1(3)** "Commissioner" means the commissioner of the department of social services.

**146.1(4)** "Community based volunteer coalition or council" or "community council" means that group of persons who, by consensus of a community's human service providers, represent that community's interests in the area of prevention of child abuse and neglect and who serve in the representational capacity without compensation. The consensus of the community's human service providers may be demonstrated through letters of support or similar documentation.

**146.1(5)** "Contractor" means the single agency or organization with which the department contracts for administration of the child abuse prevention program and program funds.

**146.1(6)** "Department" means the Iowa department of social services.

**146.1(7)** "Fiscal year" means the twelve-month period for which child abuse prevention program funds are appropriated.

**146.1(8)** "Grantees" or "projects" are terms used in this chapter to refer to the individual projects funded under the child abuse prevention program as approved by the advisory council.

**770—146.2(69GA, ch1259) Child abuse prevention program administration.** In any year in which the legislature appropriates funds for the child abuse prevention program, the department shall contract with a single agency or organization to administer the appropriated funds and to study and evaluate community based prevention projects and educational programs for the problems of families and children in accordance with the provisions of 1982 Iowa Acts, chapter 1259, and of these rules. Any grants, gifts or bequests to the department which are specifically designated by their source for use in the child abuse prevention program shall be administered in the same manner as funds appropriated for use in the program.

**146.2(1)** Eligibility for the program administration contract is limited to nonprofit statewide agencies or organizations which make maximum use of voluntary administrative services.

**146.2(2)** Agencies or organizations wishing to apply for the program administration contract shall submit a proposal to the department two months prior to the commencement of the fiscal year. Contract proposals shall contain the following information:

a. A description of the organization or agency requesting the contract including a table of organization and articles of incorporation and a description of other services provided by the organization or agency.

b. A list of the amount and source of current funding and other funding applied for, including the current status of the applications, and the fiscal year budget, for the agency or organization.

c. A description of the proposed plan for administration of the program including:

(1) An action plan which details the use of paid and volunteer staff.

(2) A fiscal year budget showing proposed use of child abuse prevention program funds.

(3) A timetable for implementing the program.

(4) A description of the method to be used to determine whether the goals of the program, as defined by these rules, are being met.

## SOCIAL SERVICES DEPARTMENT[770] (cont'd)

(5) A description of methods to be used to evaluate the success of prevention projects.

(6) A description of proposed methods of co-ordinating the child abuse prevention program with services of other existing agencies and organizations.

d. Letters of support, especially from relevant professionals.

**146.2(3)** The commissioner or the commissioner's designee shall rank all proposals submitted for the program administration contract based upon the three factors listed below in this subrule. The contract shall be awarded to the agency or organization whose proposal receives the highest total ranking when the rankings for all three factors are added together. The factors which shall be considered in selecting the contractor are:

a. The general structure of the applicant agency or organization including but not limited to how well the program goals as established by the advisory council can be met, the stability of the applicant, the overall quality in comparison to other proposals offered.

b. The plan for using the funds and the ability of the applicant to administer the program.

c. The ability of the applicant to co-ordinate with other existing services.

**146.2(4)** The department shall execute a contract with the contractor for the amount of funds to be used by the contractor for program administration. The contract period shall not extend beyond the fiscal year for which the funds were appropriated. Contractor expenditures will be reimbursed monthly by the state following submission of a Voucher 1 which details expenditures. The contractor shall submit with the Voucher 1 receipts for all expenditures other than salary expenses.

**146.2(5)** The contractor shall keep statistical records of services provided, clients served, grants awarded, funds expended, and any other records required by the department as specified in the contract.

**146.2(6)** The contractor shall supply the department with quarterly progress reports that include but are not limited to the following information:

a. Grants awarded, funds expended, and progress of projects.

b. A compilation of the status of activities shown in the timetable for implementing the program.

c. Reasons for any delay in completion of planned activities.

d. Specific action plan for the following quarter.

e. A compilation of statistical records that the contractor is required to keep by subrule 146.2(5).

f. Any general comments on the progress of the program.

**146.2(7)** With the assistance of the advisory council, the department shall evaluate the contractor's program administration at least two months prior to the end of the contract year to determine how well the goals of the program are being met.

**146.2(8)** The contractor may terminate the contract at any time during the contract period by giving thirty days' notice to the department. The department may terminate the contract upon ten days' notice when the contractor fails to comply with the contract stipulations, standards, or conditions. The department may terminate the contract at any time during the contract period by giving thirty days' notice to the contractor.

**770—146.3(69GA, ch1259) Project eligibility.** In any year in which the department contracts with an agency or organization for the administration of child abuse pre-

vention program funds, the contractor shall award the amount of funds specified in the contract for the purposes of matching federal funds to purchase services relating to community based programs for the prevention of child abuse and neglect and of funding the establishment or expansion of community based prevention projects or educational programs for the prevention of child abuse and neglect. Funds for the program or projects shall be applied for and received by community based volunteer coalition or councils.

**770—146.4(69GA, ch1259) Proposals.** The contractor shall widely disseminate a request for project proposals which fully describes the child abuse prevention program and procedures for applying for program funds. Community councils wishing to apply for funding shall submit a project proposal to the contractor within thirty days of the date of the request for proposals. Project proposals shall contain the following information:

**146.4(1)** A brief narrative describing the community council requesting funding.

**146.4(2)** A brief description of other services provided by the community council.

**146.4(3)** A statement of the unmet needs to be addressed by the services, including supporting statistics when available.

**146.4(4)** A description of the prevention services for which funding is being requested which includes but is not limited to the following:

a. The target population to be served.

b. Any service eligibility requirements which will be established by the council.

c. The anticipated source of referrals for the services.

d. The anticipated number of clients to be served.

e. A statement of the anticipated measurable outcomes of the service provision and the means of determining these outcomes.

f. Job descriptions and requirements for any new positions.

**146.4(5)** The proposed fiscal year budget for the services, other sources of income, plans for future funding of the service, including written commitments when possible, and any anticipated request for funding beyond the first year.

**146.4(6)** The applicant's statement of co-operation and co-ordination with existing service programs to avoid duplication and share resources. Similar statements from the existing service programs.

**146.4(7)** Letters of local support, especially from relevant professionals.

**770—146.5(69GA, ch1259) Selection of project proposals.**

**146.5(1)** All proposals for funding shall be reviewed by the contractor who shall make recommendations to the advisory council on project selection.

**146.5(2)** The advisory council shall make the final decision with respect to the approval of project grants.

**146.5(3)** The following factors will be considered in the contractor's recommendations and in the selection of proposals:

a. The demonstrated need for the service in the geographical area served.

b. The community support demonstrated and the co-operation and co-ordination with existing agencies.

c. The efforts of the project to secure other funding.

d. The general project structure including but not limited to, how well goals can be met, how realistic the objectives are, the administration of funds, stability of the

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organization, the overall quality in comparison to other proposals and services offered.

e. The plan for using the funds. The funds may be used only for purposes set forth in 770—146.3(69GA, ch1259).

**146.5(4)** The applicant may be requested to modify the proposal through the contracting process.

**770—146.6(69GA, ch1259) Project contracts.** The contractor shall execute a contract with each grantee for the amount of funds awarded to each project. The total amount of funds awarded shall not exceed the amount appropriated for the program less the administrative costs of the contractor. The contract period shall not extend beyond the fiscal year for which the funds were appropriated. The grantee shall submit a Voucher 1 to the contractor by the fifteenth day of the month following the month in which grantee expenses have been incurred. On the Voucher 1, the grantee shall enter the total monthly expenditures for each approved line item established in the project contract. With the Voucher 1 the grantee shall submit receipts for all expenses other than salary expenses. The contractor shall approve reimbursement of all expenses appropriately incurred by the grantee pursuant to the grantee's contract. Approved expenditures of the grantee will be reimbursed by the state monthly.

**770—146.7(69GA, ch1259) Project records.** Grantees shall keep statistical records of services provided and any other records as required by the contractor and specified in the project contract.

**770—146.8(69GA, ch1259) Quarterly project progress reports.** All grantees shall supply the contractor with quarterly progress reports that include but are not limited to the following information:

**146.8(1)** The grant dollars expended as they relate to each line item in the budget.

**146.8(2)** A list of activities completed on schedule.

**146.8(3)** Any activities not completed on schedule and the reason for the delay.

**146.8(4)** The number of clients served and the services provided.

**146.8(5)** The major goals for the next quarter.

**146.8(6)** Any general comments on the progress of the project.

**770—146.9(69GA, ch1259) Evaluation.** The contractor and department shall evaluate the grantee's project at least once per year at least two months prior to the end of the contract year to determine how well the purposes and goals of the project are being met. Funds are to be spent to meet project goals as provided in the contract.

**770—146.10(69GA, ch1259) Termination.** The project contract may be terminated by the grantee at any time during the contract period by giving thirty days' notice to the contractor. The contractor may terminate a project contract upon ten days' notice when the grantee or any of its subcontractors fail to comply with the grant award stipulations, standards, or conditions. Within forty-five days of the termination, the grantee shall supply the contractor with a financial statement detailing all costs up to the effective date of the termination.

**770—146.11(69GA, ch1259) Advisory council.** The advisory council shall establish specific program goals each fiscal year in which program funds are appropriated. The department shall consult with the advisory council in evaluating the contractor's program administration. The contractor shall obtain approval of the advisory council, pursuant to 770—146.5(69GA, ch1259) prior to awarding project

grants. The contractor shall consult with the advisory council in evaluating the effectiveness of funded projects in meeting project goals.

**146.11(1)** The advisory council shall report at least once each fiscal year to the council on social services as to the operation of the child abuse prevention program. The report shall include all pertinent information regarding the effectiveness of the program projects, the competence of program administration and any recommendations regarding changes in administrative rules governing the program.

**146.11(2)** Reserved.

These rules are intended to implement 1982 Iowa Acts, chapter 1259.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement, 11/24/82.

## ARC 3404

SOCIAL SERVICES  
DEPARTMENT[770]

Pursuant to the authority of 1982 Iowa Acts, chapter 1260, section 117, rules of the Department of Social Services appearing in the IAC relating to dependent adult abuse (chapter 156) are hereby amended. The Council on Social Services adopted these rules October 28, 1982.

Notice of Intended Action regarding these rules was published in the IAB August 18, 1982, as ARC 3130. These rules establish a program to provide protection for abused dependent adults and establish a central registry for dependent adult abuse. The rules will allow the department to provide assistance to dependent adults who are being abused by their caretakers or who are denying themselves critical care. Assistance will focus on helping the adults protect themselves or providing themselves a healthier environment in which to live.

The rules were renumbered as 770—chapter 156 as they must replace the current chapter on protective services for adults. The definition of caretaker was clarified in 156.1(2). "Promptly" was added to 156.5(3)"c" and 156.6(1). 156.6(7) was reworded. The first sentence in 770—156.8 (69GA, ch 1260) was reworded. 770—156.14 (69 GA, ch 1260) was eliminated.

These rules are intended to implement 1982 Iowa Acts, chapter 1260, section 117.

These rules shall become effective January 1, 1983.

770—Chapter 156 is rescinded and the following inserted in lieu thereof:

## CHAPTER 156

## DEPENDENT ADULT ABUSE

**770—156.1(69GA, ch 1260) Definitions.**

**156.1(1)** "Adult abuse" means:

a. Any of the following as a result of the willful or negligent acts or omissions of a caretaker:

(1) Physical injury to or unreasonable confinement or cruel punishment of a dependent adult.

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(2) The commission of a sexual offense under Iowa Code chapter 709 (sexual abuse) or Iowa Code section 726.2 (incest) with or to a dependent adult.

(3) Exploitation of a dependent adult.

(4) The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health.

b. The deprivation of the minimum food, shelter, clothing, supervision, physical and mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult.

**156.1(2)** "Caretaker" means a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court.

**156.1(3)** "Department" means the department of social services and includes the local, district and central offices of the department, unless otherwise specified.

**156.1(4)** "Dependent adult" means a person eighteen years of age or older who is unable to protect his or her own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another.

**156.1(5)** "Exploitation" means the act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit by the use of undue influence, harassment, duress, deception, false representation, or false pretenses.

**156.1(6)** "Minimum food, shelter, clothing, supervision, physical and mental health care, and other care" means that food, shelter, clothing, supervision, physical and mental health care, and other care which, if not provided, would constitute denial of critical care.

**156.1(7)** "Denial of critical care" is a pattern of care in which the dependent adult's basic needs are denied or ignored to such an extent that there is imminent or potential danger of the dependent adult suffering injury or death, or is a denial of, or a failure to provide the mental health care necessary to adequately treat the dependent adult's serious social maladjustment, or is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning, or is a failure of the caretaker to provide for the proper supervision of the dependent adult.

**156.1(8)** "Proper supervision" means that supervision which a reasonable and prudent person would exercise under similar facts and circumstances, but in no event shall a person place a dependent adult in a situation that may endanger the dependent adult's life or health, or cruelly punish or unreasonably confine the dependent adult.

**156.1(9)** "Appropriate evaluation" means that evaluation reasonably believed by the department to be warranted by the facts and circumstances of the case as reported.

**156.1(10)** "Report" means a verbal or written statement, made to the department, which alleges that dependent adult abuse has occurred.

**156.1(11)** "Collateral sources" means any person or agency who is presently providing, either in a professional or paraprofessional capacity, service to the dependent adult, including, but not limited to, doctors, counselors, and public health nurses.

**156.1(12)** "Physical injury" means damage to any bodily tissue to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condi-

tion, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.

**156.1(13)** "Registry" means the central registry for child abuse information established in Iowa Code chapter 235A, expanded to include the statewide registry for dependent adult abuse.

**770—156.2(69GA, ch 1260) Denial of critical care.** The failure on the part of the caretaker or dependent adult to provide for minimum food, shelter, clothing, supervision, physical and mental care, and other care necessary for the dependent adult's health and welfare when financially able to do so or when offered financial and other reasonable means to do so shall constitute denial of critical care to that dependent adult.

**770—156.3(69GA, ch 1260) Situations not included as dependent adult abuse.**

**156.3(1)** A report under Iowa Code chapter 236, domestic abuse, does not in and of itself constitute a report of dependent adult abuse.

**156.3(2)** Depriving a dependent adult of medical treatment when the dependent adult is an adherent of a religion whose tenets and practices call for reliance on spiritual means through prayer alone in place of reliance on medical treatment.

**156.3(3)** The withholding and withdrawing of health care from a dependent adult when the withholding and withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next-of-kin or guardian when the dependent adult is unable to express his or her wishes and is terminally ill in the opinion of a licensed physician.

**156.3(4)** All persons legally incarcerated in a penal setting, either in a local jail or confined to the custody of the director of the division of adult corrections.

**770—156.4(69GA, ch 1260) Reporters.** Any person who believes that a dependent adult has suffered adult abuse may report the suspected abuse to the department. If a member of the staff or any employee of a public or private institution, agency, or facility notifies the person in charge of the institution, agency, or facility of a case of suspected adult abuse in the institution, agency, or facility, the person in charge shall report the suspected adult abuse to the department.

**770—156.5(69GA, ch 1260) Reporting procedure.**

**156.5(1)** Each report made by a reporter may be oral or written.

**156.5(2)** The report shall be made by telephone or otherwise to the department of social services. When the person making the report has reason to believe that immediate protection for the dependent adult is advisable, that person shall also make an oral report to an appropriate law enforcement agency.

**156.5(3)** The department of social services shall:

- a. Immediately, upon receipt of a report, make an oral report to the registry;
- b. Forward a copy of the report to the registry; and
- c. Promptly notify the appropriate county attorney of the receipt of any report.

**156.5(4)** The report shall contain the following information, or as much thereof as the person making the report is able to furnish:

- a. The names and home addresses of the dependent adult, appropriate relatives, caretakers, and other persons

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believed to be responsible for the care of the dependent adult.

b. The dependent adult's present whereabouts if not the same as the address given.

c. The reason the adult is believed to be dependent.

d. The dependent adult's age.

e. The nature and extent of the adult abuse, including evidence of previous adult abuse.

f. Information concerning the suspected adult abuse of other dependent adults in the same residence.

g. Other information which the person making the report believes might be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse, or helpful in providing assistance to the dependent adult.

h. The name and address of the person making the report.

**156.5(5)** A report shall be accepted whether or not it contains all of the information requested in 156.5(4), and may be made to the department, county attorney, or law enforcement agency. When the report is made to any agency other than the department of social services, that agency shall promptly refer the report to the department.

**770—156.6(69GA, ch 1260) Duties of the department upon receipt of report.**

**156.6(1)** When a report is received, the department shall promptly commence an appropriate evaluation, except that the state department of health is responsible for the evaluation and disposition of a case of adult abuse in a health care facility, as defined in Iowa Code section 135C.1, subsection 4. The department shall promptly forward all reports and other information concerning adult abuse in a health care facility to the state department of health. The state department of health shall inform the registry of all actions taken or contemplated concerning the evaluation or disposition of a case of adult abuse in a health care facility. The primary purpose of the evaluation by the department shall be the protection of the dependent adult named in the report.

**156.6(2)** The evaluation shall include all of the following:

a. Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.

b. The identification of the person or persons responsible for the adult abuse.

c. A determination of whether other dependent adults in the same residence have been subjected to adult abuse.

d. A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.

e. A critical examination of all other pertinent matters.

**156.6(3)** The evaluation, with the consent of the dependent adult or caretaker, when appropriate, may include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult. If permission to enter the residence and to examine the dependent adult is refused, the district court, upon a showing of probable cause that a dependent adult has been abused, may authorize a person, authorized by the department, to make an evaluation, to enter the residence of, and to examine the dependent adult.

**156.6(4)** The department, upon completion of its evaluation, shall transmit a copy of its preliminary

report, including actions taken or contemplated, to the registry within ninety-six hours after the department receives the adult abuse report, unless the registry grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the registry grants an extension of time for good cause shown.

**156.6(5)** The department shall also transmit a copy of the report of its evaluation to the appropriate county attorney. The county attorney shall notify the local office of the department of any actions or contemplated actions with respect to a suspected case of adult abuse.

**156.6(6)** Based on the evaluation, the department shall complete an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. The department shall explain that the department does not have independent legal authority to compel the acceptance of protective services. Upon voluntary acceptance of the offer of services, the department shall make referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The department may establish a sliding fee schedule for those persons able to pay a portion of the protective services provided.

**156.6(7)** When, upon completion of the evaluation, the department determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator, or for admission or commitment to an appropriate institution or facility. The department should seek assistance from the appropriate county attorney in the preparation of the necessary papers to initiate the action, and the county attorney should appear and represent the department at all district court proceedings.

**156.6(8)** The department shall assist the district court during all stages of court proceedings involving a suspected case of adult abuse.

**156.6(9)** In every case involving adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, the department should seek legal counsel appointed by the court, to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem.

**770—156.7(69GA, ch 1260) Appropriate evaluation.**

**156.7(1)** After receipt of the report alleging dependent adult abuse the field worker shall make a preliminary evaluation to determine whether the information as reported, other known information, and any information gathered as a result of the worker's contact with collateral sources would tend to corroborate the alleged abuse.

**156.7(2)** When the information gathered in the preliminary evaluation tends to corroborate, or the worker is uncertain as to whether it repudiates the allegations of the report, the worker shall immediately continue the evaluation by making a reasonable effort to ensure the safety of the adult. The worker and the worker's supervisor shall determine whether an immediate threat to the physical safety of the adult is believed to exist. If an immediate threat to the physical safety of the adult is

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believed to exist, the field worker shall make every reasonable effort to examine the adult, as authorized by 156.6(3), within one hour after receipt of the report and shall take any lawful action necessary or advisable for the protection of the adult. When the physical safety of the adult is not endangered, the worker shall make every reasonable effort to examine the adult within twenty-four hours after receipt of the report.

**156.7(3)** In the event the information gathered in the preliminary evaluation fails to corroborate the allegation of adult abuse, the worker with approval of the supervisor, may terminate the investigation and submit the "ninety-six-hour report" required by subrule 156.6(4).

**770—156.8(69GA, ch 1260) Immunity from liability for reporters.** A person participating in good faith in making a report or co-operating or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participation in good faith in a judicial proceeding resulting from the report or assistance or relating to the subject matter of the report or assistance.

**770—156.9(69GA, ch 1260) Registry records.** Central registry records shall be kept in the name of the dependent adult and cross-referenced in the name of the caretaker.

**770—156.10(69GA, ch 1260) Information disseminated.** Reports by the central registry to the medical practitioner or law enforcement agency shall be limited to the nature and extent of previous injury sustained by the dependent adult named in the report. All other information shall be available to departmental employees designated to investigate the report. Requests for dependent adult abuse information shall be made on form SS-1114-0, "Request for Dependent Adult Abuse Information." Authorized access shall be determined by the local office when the requester is unknown to the central

registry. Information shall be routed through the local office to ensure lawful dissemination.

**770—156.11(69GA, ch 1260) Person conducting research.** The person in charge of the central registry shall be responsible for determining whether a person requesting dependent adult abuse information is conducting bona fide research. To make this determination, the central registry may require these persons to submit credentials and the research design. Any costs incurred in the dissemination of the information shall be assumed by the researcher. The department will keep a public record of persons conducting research.

**770—156.12(69GA, ch 1260) Examination of information.** Examination of information contained in the central registry can be made at the site of the central registry between the hours of 8:00 a.m. and 12:00 p.m. or 1:00 p.m. and 4:00 p.m., Monday through Friday, except state authorized holidays.

The person, or that person's attorney, requesting to examine the information in the registry which refers to that person, shall be allowed to inspect the information after providing appropriate identification.

**770—156.13(69GA, ch 1260) Expungement of central registry records.** When a report of dependent adult abuse has been determined to be unfounded in accordance with Iowa Code section 235A.18, subsection 2, the report shall be expunged within one month after the determination.

**770—156.14(69GA, ch 1260) Central registry.** The central registry for child abuse shall be expanded to include dependent adult abuse, and Iowa Code chapter 235A shall apply unless the context otherwise requires.

These rules are intended to implement 1982 Iowa Acts, chapter 1260, section 117.

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