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Pursuant to Iowa Code section 17A.6, the Iowa Administrative Code (IAC) is a loose-leaf publication containing all rules adopted and filed by state government agencies and an index to those rules. The IAC is organized by agencies and divided into chapters. Each agency that has been delegated rule-making authority by the Iowa General Assembly has been assigned an agency number which appears in each rule adopted by that agency as well as at the top of each page of the agency's rules.

The first volume of the IAC contains explanatory information under the following headings:

General Information about the IAC
Chapter 17A of the Iowa Code
Style and Format of Rules
Table of Rules Implementing Statutes
Uniform Rules on Agency Procedure

Replacement pages incorporating amendments to rules are published and distributed on a biweekly basis as the Iowa Administrative Code Supplement. Each page of rules reflects the date of its publication; and each chapter of rules concludes with a historic listing of the dates on which that chapter changed, including dates of filing with the Administrative Rules Coordinator, publication of Notice of Intended Action in the Iowa Administrative Bulletin, publication of the IAC Supplement, and effective date of the change.

INSTRUCTIONS

FOR

Updating Iowa Administrative Code
with Biweekly Supplement

NOTE: Please review the "Preface" for both the Iowa Administrative Code and Biweekly Supplement and follow carefully the updating instructions.

The boldface entries in the left-hand column of the updating instructions correspond to the tab sections in the IAC Binders.

Obsolete pages of IAC are listed in the column headed "Remove Old Pages." New and replacement pages in this Supplement are listed in the column headed "Insert New Pages." It is important to follow instructions in both columns.

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UPDATING INSTRUCTIONS
January 13, 1999, Biweekly Supplement

[Previous Supplement dated 12/30/98]

IOWA ADMINISTRATIVE CODE

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*It is recommended that "Old Pages" be retained indefinitely in a place of your choice. They may prove helpful in tracing the history of a rule.

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CHAPTER 1
ADMINISTRATION
[Prior to 2/24/88, see Agriculture Department, 30—Chapter 1]

21—1.1(159) Organization.

1.1(1) *"Department"* means the department of agriculture and land stewardship.

1.1(2) *"Secretary"* means the secretary of agriculture who is the head of the department.

1.1(3) The deputy secretary of agriculture advises the secretary and has the statutory authority to perform any of the duties required or authorized of the secretary in the secretary's absence or through explicit directions or tacit consent.

1.1(4) The department is organized into six branches known as the administrative division, the agricultural marketing division, the agricultural planning and policy division, the laboratory division, the regulatory division, and the soil conservation division. Each division is headed by a division director. The directors assist the secretary in the implementation of the secretary's policies within the various bureaus and units assigned to that division, assist the secretary in supervising the work of the various bureaus and units assigned to that division, provide the expertise of their division to other divisions where appropriate, and perform other duties as assigned by the secretary.

1.1(5) The agricultural development authority is a semiautonomous agency functioning within the department to provide a beginning farmer loan program and other agricultural financing programs. The powers of the agricultural development authority are vested in a board of directors, and its rules appear at 25—Chapter 1, et seq., Iowa Administrative Code. The secretary appoints an executive director to supervise and direct the activities of the authority.

1.1(6) The grain indemnity fund board is an autonomous agency of which the secretary is president. The board operates in conjunction with the grain warehouse bureau of the department, determining and providing for payment of claims which arise as a result of the failure of a grain dealer or warehouse operator and administering the Iowa grain depositors and sellers indemnity fund. The rules for the board's organization and operations and its procedures for resolving claims appear in 21—Chapters 63 and 64, Iowa Administrative Code.

21—1.2(159) Administrative division. In addition to the duties outlined in subrule 1.1(4), the director of the administrative division assists the secretary in the preparation and presentation of the department's budget to the governor and the general assembly. The division provides personnel services and works with the secretary in the selection, hiring, and most phases of employment record keeping and processing relative to pay, benefits, employee status changes in relation to the department. The bureaus and units under the supervision of the administrative division are as follows:

1.2(1) *Fiscal bureau.* The fiscal bureau includes the following units:

a. Accounting. The accounting unit handles all accounting functions for the department, prepares payrolls, presents budget recommendations, and performs various other business functions including the paying of bills and vouchers.

b. Central supply. The central supply unit is responsible for maintaining adequate inventory of, and records on, supplies used by the various divisions, bureaus, and units within the department.

c. Licensing. The licensing unit supervises the preparation and distribution of licenses to various business establishments such as elevators and fertilizer plants, scales, gas pumps, milk routes and frozen foods which are required by law to be licensed by the department.

1.2(2) *Audit bureau.* The audit bureau analyzes reports filed by feed and fertilizer companies for fees paid to the feed and fertilizer trust funds of the department. It also makes audits to check for compliance with checkoff law for the commodity promotion boards.

1.2(3) *Climatology bureau.* This bureau collects data and keeps records on rainfall, snowfall, snowmelt, frost, and sun days, and prepares various reports including publishing maps showing data by region.

1.2(4) *Apiary bureau.* The apiary bureau, headed by the state apiarist, sponsors lectures, workshops, and demonstrations, and inspects the production, care, and health of bees and honey.

1.2(5) *Agricultural statistics bureau.* This bureau collects, prepares and publishes annual state farm census and other periodic research data, such as production figures, utilization of feed grains, grain stocks on hand, price variance, and marketing data on crops and livestock.

1.2(6) *Dairy trade practices bureau.* This bureau monitors the dairy trade practices of processors, distributors, retailers, and others to prevent the use of certain unfair practices in the production of milk and ice cream which would tend to lessen competition and create a monopoly.

21—1.3(159) Agricultural marketing division. In addition to the duties outlined in subrule 1.1(4), the director of the agricultural marketing division advises the secretary as to potential markets for agricultural products as to the need for promotional activity to enhance Iowa products in both domestic and foreign markets. The director also assists the secretary in working with the marketing boards of commodity groups to aid in more advantageous marketing of Iowa agricultural products. The agricultural marketing division performs the duties of the "farm commodity division" as designated in the Code of Iowa. The bureaus and units under the supervision of the agricultural marketing division are as follows:

1.3(1) *Livestock/grain bureau.* This bureau includes the following units:

a. Livestock marketing. This unit provides direction and support to the quality Iowa livestock industry and works with various livestock marketing and promotional groups.

b. Grain marketing. The grain marketing unit helps facilitate the promotion and marketing of quality Iowa grown grains and soybeans, and works closely with various grain marketing and promotional organizations.

c. Market news. The market news unit reports daily prices, volume receipts, and the movement of livestock, poultry, and agricultural products.

d. International marketing. This unit provides services to help stimulate interest in and demand for quality Iowa products. Included in this area are trade missions, trade shows, and hosting of foreign delegations. International communications services help provide assistance through the publication of materials such as the Agricultural Export Directory, country trade profiles and statistical reports. The unit's staff works in close cooperation with other international trade efforts at the state and national level. The division oversees the supervision of the Iowa Agricultural Trade Center in the International Trade Center in cooperation with other farm organizations.

1.3(2) *Sheep bureau.* The sheep bureau promotes the consumption of lamb, the use of wool, the economic production and marketing of lamb and wool, and develops and promotes advanced technology in the selection of quality meat type progeny.

1.3(3) *Horticulture/diversification bureau.* This bureau includes the following units:

a. Horticulture. This unit lends direction, continuity, leadership, and administrative services and guidance to the Iowa horticulture industry.

b. Economic development. This program is geared to help Iowa farmers with fruit and vegetable sales by developing postharvest handling and marketing facilities around the state, with the goal of expanding new markets and generating new jobs in the state.

c. Alternative crops and livestock. This program complements the economic development program by helping determine market potential for alternative crops and livestock such as Christmas trees, nuts, fish, game birds, and small grains. The staff works with the agriculture departments in other states, other state departments, universities, and other sources of information.

d. Farmers market development. The goal of this program is to establish at least one full-time metropolitan farmers market in Iowa and to upgrade and develop the full potential of part-time markets around the state.

21—1.4(159) Agricultural planning and policy division.

1.4(1) *Scope of duties.* In addition to the duties outlined in subrule 1.1(4), the director of the agricultural planning and policy division assists the secretary in overseeing policy analysis and planning on issues and programs of importance to the department, and provides planning, research, and administrative support services to the secretary, deputy secretary, and the entire department. The division is responsible for recommending policy initiatives and alternatives, and reviewing their possible impact on the department on the basis of analytical reviews. The division supervises and assists other divisions with long-range planning efforts and program developments, including assisting in the preparation and promulgation of administrative rules by any division of the department. The director reviews and analyzes proposed state and federal legislation which impacts agriculture, determines the impact of such proposals on current department policy, rules, and law, and directs the preparation of the department's position on issues related to agriculture. The director coordinates all of the department's external communications and supervises the information unit of the department.

1.4(2) *Information unit.* The information unit is staffed by information specialists who prepare informational material for the public benefit under the direction of the secretary. The information specialists prepare information for use through the media including the newspapers, radio, television, and magazines. Information specialists are also responsible for drafting of speech material and brochures and cooperate with other state agencies in disseminating agricultural information and education.

21—1.5(159) Laboratory division. In addition to the duties outlined in subrule 1.1(4), the director of the laboratory division advises the secretary of any activities and impending or potential problems that have come to the attention of laboratory personnel. The bureaus and laboratories under the supervision of the laboratory division are as follows:

1.5(1) *Commercial fertilizer bureau.* The commercial fertilizer bureau licenses and registers fertilizer plants and products; collects, compiles, and distributes data on plant food consumption; collects commercial fertilizer tonnage fees and groundwater protection fees; approves, inspects and regulates all anhydrous ammonia installations; and licenses, samples, evaluates and certifies all limestone quarries.

1.5(2) *Commercial feed bureau.* The commercial feed bureau registers feed mills and commercial feed manufacturing facilities, registers feed and stock tonic products, and collects commercial feed tonnage fees.

1.5(3) *Medicated feed bureau.* This bureau inspects medicated feed in accordance with food and drug administration rules and regulations.

1.5(4) *Pesticide bureau.* The pesticide bureau registers pesticide products, licenses and certifies pesticide applicators, establishes programs for best management practices of agricultural chemicals, monitors consumer products for pesticide residues, implements pesticide enforcement and certification programs of the environmental protection agency, and cooperates with the department of natural resources and other agencies.

1.5(5) *Seed and entomology bureau.* This bureau licenses establishments selling or distributing seeds that are sold for agricultural purposes; controls the movement of serious insect pests and plant diseases, including those under federal quarantine; inspects nurseries and conducts laboratory analyses through the laboratory unit within the bureau.

1.5(6) *Feed and fertilizer laboratory.* The feed and fertilizer laboratory analyzes feed and fertilizer samples of guaranteed analysis.

1.5(7) *Vitamin, drug and antibiotic laboratory.* The vitamin, drug and antibiotic laboratory analyzes livestock feed to ensure that it is manufactured and used in accordance with food and drug administration laws.

1.5(8) *Pesticide residue and formulation laboratory.* The pesticide residue and formulation laboratory analyzes samples collected from pesticide retail establishments; during use/misuse investigations, and from pesticide manufacturers to determine if pesticides have been used and produced properly.

1.5(9) *Food, meat, poultry and dairy laboratory.* The food, meat, and poultry and dairy laboratory analyzes samples to determine the composition of the product and substances added to determine wholesomeness and safety; certifies private dairy laboratories in the state and tests private water supplies for bacteria and nitrate content.

1.5(10) *Brucellosis laboratory.* The brucellosis laboratory analyzes livestock blood and milk samples for brucella abortus antigen in cooperation with federal veterinary services of the department of agriculture.

21—1.6(159) Regulatory division. In addition to the duties outlined in subrule 1.1(4), the director of the regulatory division advises the secretary of activities and any impending or potential problems that have come to the attention of the regulatory personnel and shall serve as a liaison between the department and the attorney general's office and other legal oriented agencies. The bureaus and units under the supervision of the regulatory division are as follows:

1.6(1) *Animal industry bureau.* The animal industry bureau is under the direction of the state veterinarian and consists of the following units:

a. Animal health. This unit conducts brucellosis, pseudorabies, and tuberculosis control and eradication programs; issues quarantines and approves premises for receiving animals of unknown health status for feeding or isolation while under quarantine; inspects and licenses cattle dealers, pig dealers, auction markets, hatcheries, and rendering plants; registers cattle brands; provides secretarial help, supplies and facilities for the board of veterinary medicine; maintains the capability to react to emergency situations; and maintains liaison with livestock producer groups.

b. Animal welfare. This unit licenses and regulates the humane care and handling and disease control in dogs, cats, and pet shop animals by those who sell, lease, or transfer these animals.

c. Meat and poultry inspection. Rescinded IAB 1/13/99, effective 2/17/99.

1.6(2) *Grain warehouse bureau.* This bureau licenses, inspects and examines grain warehouse facilities and reviews financial statements of licensees to ensure compliance with state licensing requirements including payment of fees into the grain indemnity fund. The bureau also reviews claims made against the fund and makes recommendations on those claims to the grain indemnity fund board, upon which the board takes action.

1.6(3) *Dairy products control bureau.* This bureau conducts a statewide program of dairy products control, and regulates all phases of production, processing, and manufacturing of Grade A and Grade B dairy foods (manufacturing milk), dairy food, milk and dairy products, and other by-products.

1.6(4) *Horse and dog bureau.* This bureau promotes the Iowa horse and dog breeding industry by registering qualified Iowa-foaled horses and Iowa-whelped dogs and working in cooperation with the racing industry. The bureau administers the payment of breeder awards to the breeders of qualified winning horses and dogs.

1.6(5) *Weights and measures bureau.* This bureau inspects and licenses for commercial use all weights and measures or weighing and measuring devices. It conducts petroleum products sampling and testing. Tests and certifies antifreeze. Conducts random package and labeling inspection of products offered for sale. It registers and licenses all service agencies and persons who service or repair commercial weighing and measuring devices. It approves or rejects all blueprints on new scale installations. It approves or rejects bonds for scale installation. The bureau maintains the state metrology laboratory, following the rules and regulations of the National Bureau of Standards; and using the weights and measures standards that are traceable to the National Bureau of Standards adjusts, certifies and seals weights and measures used by state inspectors, commercial repairers and private industry.

1.6(6) *Meat and poultry inspection bureau.* This bureau enforces and administers Iowa Code chapter 189A, meat and poultry inspection Act. It is a cooperative program with the United States Department of Agriculture. The program must maintain an "equal to" status with the federal Wholesome Meat and Poultry Products Inspection Acts. This bureau conducts inspections of facilities, animals, products, and labeling and exercises processing controls and reinspection of meat and poultry products for intrastate commerce.

21—1.7(159) Soil conservation division. In addition to the duties outlined in subrule 1.1(4), the director of the soil conservation division advises the secretary on soil and water conservation matters and works with the state soil conservation committee in the promulgation of rules relating to soil conservation. The division performs duties as designated in the Code of Iowa. The bureaus and units under the supervision of the soil conservation division are as follows:

1.7(1) *Soil resources bureau.* This bureau works to control erosion on all agricultural land, seeks to improve the availability and use of soil surveys, provides incentive programs for the establishment of land treatment measures, provides assistance and guidance to soil and water conservation districts, and carries out the Iowa soil 2000 program. The bureau includes the following units:

a. Iowa financial incentive program.
b. Field services.
c. Soil survey.

1.7(2) *Water resources bureau.* This bureau works to preserve the public interest in the water resources of the state by developing and implementing management plans for the major river basins within Iowa, implementing a statewide program for nonpoint-source pollution control, coordinating various water resource projects and programs with appropriate local, state, and federal agencies, developing and implementing groundwater quality programs, and providing assistance and guidance to water resource districts. The bureau includes the following units:

a. Agricultural energy management fund.
b. Nonpoint-source pollution.
c. Water resource districts.
d. Groundwater quality program.
e. Federal watershed program.
f. Federal river basin program.

1.7(3) *Mines and minerals bureau.* This bureau provides for the rehabilitation and conservation of land affected by surface mining, carries out coal regulatory programs, and regulates limestone and gypsum quarries, sand and gravel pits, and other mineral extraction operations. The bureau consists of the following units:

a. Coal regulatory.

b. Abandoned mined land reclamation.

c. Noncoal regulatory.

21—1.8 and 1.9 Transferred to 21—2.1 and 21—2.2 IAB 7/27/88, effective 7/8/88.

21—1.10 Rescinded IAB 7/27/88, effective 7/8/88.

21—1.11 Rescinded IAB 7/27/88, effective 7/8/88.

21—1.12 Rescinded IAB 7/27/88, effective 7/8/88.

These rules are intended to implement Iowa Code sections 17A.3 and 17A.4 and Iowa Code chapter 159.

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CHAPTER 76
MEAT AND POULTRY INSPECTION
[Prior to 7/27/88 see Agriculture Department 30—Ch 43]

21—76.1(189A) Federal Wholesome Meat Act regulations adopted. Part 301 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of October 1, 1998, is hereby adopted in its entirety by reference; and in addition thereto, the following subsections shall be expanded to include:

1. Sec. 301.2(a) therein defining the term "Act" shall include the Iowa meat and poultry inspection Act, Iowa Code chapter 189A.
2. Sec. 301.2(b) therein defining the term "department" shall include the Iowa department of agriculture and land stewardship.
3. Sec. 301.2(c) therein defining the term "secretary" shall include the secretary of agriculture of the state of Iowa.
4. Sec. 301.2(e) therein defining the term "administrator" shall include the supervisor of the Iowa meat and poultry inspection service or any officer or employee of the Iowa department of agriculture and land stewardship.
5. Sec. 301.2(t) therein defining the term "commerce" shall include intrastate commerce in the state of Iowa.
6. Sec. 301.2(u) therein defining the term "United States" shall include the state of Iowa.

21—76.2(189A) Federal Wholesome Meat Act regulations adopted. Part 303, Part 304, Part 305, Part 306, Parts 308 through 320, Part 329, Part 416, and Part 417 of Title 9, Chapter III of the Code of Federal Regulations, revised as of October 1, 1998, are hereby adopted in their entirety by reference. Part 307 except Sections 307.5 and 307.6 and Part 325 except Sections 325.3 and 325.12 of Title 9, Chapter III, of the Code of Federal Regulations, revised as of October 1, 1998, are hereby adopted in their entirety by reference.

21—76.3(189A) Federal Poultry Products Inspection Act regulations adopted. Part 381, Title 9, Chapter III, of the Code of Federal Regulations, revised as of October 1, 1998, is hereby adopted in its entirety with the following exceptions: 381.96, 381.97, 381.99, 381 101, 381.102, 381.104, 381.105, 381.106, 381.107, 381.128, Subpart R, Subpart T, Subpart V, Subpart W; and in addition thereto, the following subsections shall be expanded to include:

1. Sec. 381.1(b)(2) therein defining the term "Act" shall include the Iowa meat and poultry inspection Act, Iowa Code chapter 189A.
2. Sec. 381.1(b)(3) therein defining the term "administrator" shall include the supervisor of the Iowa meat and poultry inspection service, or any officer or employee of the Iowa department of agriculture and land stewardship.
3. Sec. 381.1(b)(10) therein defining the term "commerce" shall include intrastate commerce in the state of Iowa.
4. Sec. 381.1(b) therein defining the term "department" shall include the Iowa department of agriculture and land stewardship.
5. Sec. 381.1(b)(47) therein defining the term "secretary" shall include the secretary of agriculture of the state of Iowa.
6. Sec. 381.1(b)(53) therein defining the term "United States" shall include the state of Iowa.

These rules are intended to implement Iowa Code sections 189A.3 and 189A.7(8).

21—76.4(189A) Inspection required. Every establishment except as provided in Section 303.1(a), (b), (c) and (d) of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of October 1, 1998, in which slaughter of livestock or poultry, or the preparation of livestock products or poultry products is maintained for transportation or sale in commerce, shall be subject to the inspection and other requirements of those parts of Title 9, Chapter III, Subchapter A, of the Code of Federal Regulations, revised as of October 1, 1998, enumerated in rules 21—76.1(189A), 21—76.2(189A) and 21—76.3(189A).

This rule is intended to implement Iowa Code sections 189A.4 and 189A.5.

21—76.5(189A) Handbook 570 adopted. U.S.D.A. Handbook 570, a guide to construction and layout for U.S. inspected meat and poultry plants, February 1981, is hereby adopted in its entirety by reference, and the specifications therein are those required for the construction, equipment and layout for those plants identified in rule 21—76.4(189A).

This rule is intended to implement Iowa Code section 189A.5(6).

21—76.6(189A) Forms and marks. Whenever an official form is designated by federal regulation, the appropriate Iowa form will be substituted and whenever an official mark is designated, the following official Iowa marks will be substituted:

76.9(2) Decharacterizing shall be done to an extent acceptable to the department. Decharacterization shall be done in such a manner that each piece of material shall be decharacterized so as to preclude its being used for, or mistaken for, product for human consumption.

76.9(3) All containers for decharacterized inedible meat or carcass parts shall be plainly marked with the word "inedible" in letters no less than two inches high.

76.9(4) Decharacterized inedible meat and carcass parts shall be frozen or held at a temperature of 40°F or less in the processing plant or during transportation to the final processor.

This rule is intended to implement Iowa Code section 189A.8.

21—76.10(189A,167) Transportation of decharacterized inedible meat or carcass parts. No person engaged in the business of buying, selling or transporting in intrastate commerce, dead, dying, disabled or diseased animals, or any parts of the carcasses of any animals that died otherwise than by slaughter, or any other inedible product not intended for use as human food, shall buy, sell, transport, offer for sale or transportation or receive for transportation in such commerce, any dead, dying, disabled or diseased livestock or poultry or the products of any such animals that died otherwise than by slaughter, or any other inedible product not intended for use as human food, unless such transaction or transportation is made in accordance with Iowa Code chapters 167 and 189A and 21—Chapters 61 and 76.

76.10(1) All carcasses and other inedible material received for processing, and all decharacterized inedible material shipped from the plant, shall be transported and delivered in closed conveyances. The conveyance shall be constructed in such a manner as to prevent the spillage of liquids and material and in accordance with rules 21—61.15(163) and 61.16(163), Iowa Administrative Code.

76.10(2) Rendering plants and pet animal food processing plants outside the state of Iowa, from which decharacterized inedible meat or carcass parts are shipped into the state of Iowa, shall be certified by the proper public officials of the state of origin that the processing plants meet at least the minimum standards as set forth in these rules.

This rule is intended to implement Iowa Code sections 189A.8 and 167.15.

21—76.11(189A) Records. Records which fully and correctly disclose all transactions involved in their business shall be kept and retained for a period of no less than two years by the following classes of persons:

Any person that engages in intrastate commerce in the business of slaughtering any livestock or poultry, or preparing, freezing, packaging or labeling, buying or selling, transporting or storing any livestock or poultry products for human or animal food;

Any person that engages in intrastate commerce in business as a renderer or in the business of buying, selling or transporting any dead, dying, disabled or diseased carcasses of such animals or parts of carcasses of any such animals, including poultry, that died otherwise than by slaughter.

76.11(1) All such persons shall afford the secretary and authorized representatives access to such business and opportunity at all reasonable times to examine the facilities, inventory and records thereof, to copy the records and to take reasonable samples of the inventory, upon payment of the reasonable value therefor.

76.11(2) Records shall include the following:

a. The name and address of the owner, the approximate time of death of the animal and the date the animal was received for processing shall be recorded for all animals to be inspected for processing into pet animal food.

b. The number of cartons or containers and the approximate weight of other material received from slaughterhouses, packing plants and other sources to be used in the processing of pet animal food.

c. The number of cartons, packages or containers of processed inedible meat and carcass parts and the weight of each carton stored.

d. Date of shipment, number of containers or boxes, weight of each shipment and name and address of the consignee of all inedible and decharacterized material shipped from the plant.

This rule is intended to implement Iowa Code section 189A.4(7).

21—76.12(189,189A) Movement of meat products into the state. Rescinded IAB 2/26/97, effective 4/2/97.

21—76.13(189A) Voluntary inspections of exotic animals. Every person wishing to obtain voluntary inspection of exotic animals shall comply with the regulations adopted in this rule.

Part 352 of Title 9, Chapter III of the Code of Federal Regulations, revised as of October 1, 1998, is hereby adopted in its entirety by reference.

This rule is intended to implement Iowa Code chapter 189A.

21—76.14 (189A) Voluntary inspection of ratites.

76.14(1) Every person wishing to obtain voluntary inspection of ratites shall comply with the guidelines adopted in this rule.

The document entitled "Ostrich Slaughter Inspection Guidelines," published by the United States Department of Agriculture, Food Safety and Inspection Service, Slaughter Inspection Standards and Procedures Division, and dated October 3, 1994, is hereby adopted in its entirety by reference. In addition to the provisions found in that document, the following terms shall be included:

a. The term "ostrich" shall include all members of the ratite family of flightless birds.

b. The term "FSIS veterinarian" shall include the meat and poultry supervisory veterinarians of the Iowa department of agriculture and land stewardship.

c. The term "program employee" shall include any employee or officer of the Iowa department of agriculture and land stewardship.

d. The term "Humane Slaughter Act" shall include Iowa Code section 189A.18.

76.14(2) The federal rules adopted in 76.2(189A) will apply to the regulation of ratite food products, processing controls, and labeling.

76.14(3) Forms and marks used in the regulation of ratites will be as adopted in 76.6(189A).

76.14(4) The fee for ratite inspection is $25 per hour for service rendered.

This rule is intended to implement Iowa Code chapter 189A.

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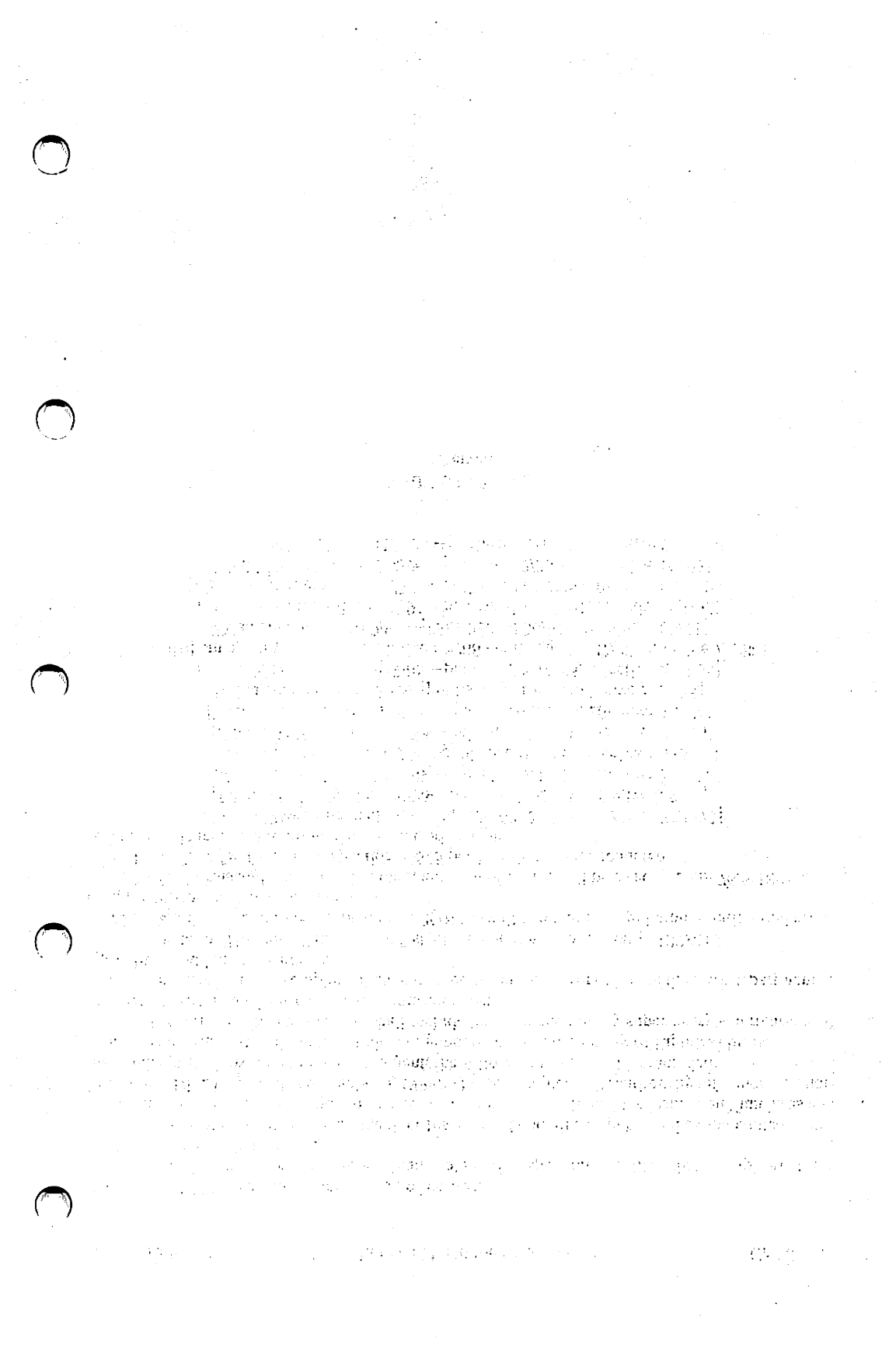

INSURANCE DIVISION[191]

[Prior to 10/22/86, see Insurance Department[510], renamed Insurance Division[191] under the "umbrella" of Department of Commerce by the 1986 Iowa Acts, Senate File 2175]

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INSURANCE AGENTS

CHAPTER 10
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191—10.1(522) Purpose and authority.

10.1(1) The purpose of these rules is to govern the qualifications and procedures for the licensing of insurance producers and to set out the requirements, procedures and fees relating to the qualification, licensure and appointment of insurance producers.

10.1(2) These rules are authorized by Iowa Code section 505.8 and are intended to implement Iowa Code chapters 252J and 522.

191—10.2(522) Definitions.

"Amended license" means an insurance producer license that has had qualifications added or deleted since the issue date of the prior insurance producer license.

"Appointment" means a request by a licensed insurance company to register a licensed insurance producer as a representative of that company. A company filing such a request must have or intend to have a contractual relationship with the producer and must verify that the producer is licensed for the appropriate qualification(s).

"Appointment form" means the NAIC Midwest Zone Uniform Request for Company Appointment/Cancellation form or such other form as designated by the division.

"CE" means continuing education.

"CE term" means the three-year period ending on the December 31 prior to the producer's renewal year.

"CSAC" means college student aid commission.

"Division" means the Iowa insurance division.

"Duplicate license" means an insurance producer license reissued due to name change, address change or loss of license.

"Individual" means a private or natural person, as distinguished from a partnership, corporation or association.

"Insurance" means any of the lines of insurance listed in subrule 10.7(1).

"Insurance agency" means any partnership, corporation, or limited liability company, or other entity that has been issued a federal tax identification number for whom producers transact or do business with the public or insurance companies, but shall not mean a natural person.

"Insurance producer license application form" means the form prescribed by the division to be used to apply for an insurance producer license.

"Letter of certification" means a letter or electronic verification obtained through the National Association of Insurance Commissioners (NAIC) Producer Database system (PDB) issued by the insurance commissioner of a producer's resident state which certifies the status, current qualifications and continuing education compliance of the producer's insurance license in the resident state.

"Letter of clearance" means a letter or electronic verification issued by a commissioner which certifies that the named producer was formerly licensed in that state, lists the qualifications previously held by the producer and states that the producer is clear to obtain a resident producer license in the state of the producer's new residence.

"License" means a document issued by the division which authorizes a person to act as an insurance producer for the lines of insurance specified in the document. The license itself does not provide the producer with any authority to represent or bind an insurance carrier.

"License information bulletin" means a brochure issued annually which describes the insurance license application and testing process and which can be obtained from the outside testing service on contract with the division.

"Nonresident" means a person residing permanently in a state other than Iowa.

"Person" means a natural person, corporation, association, partnership or other legal entity as distinguished from an individual.

"Producer" means a person required to obtain an insurance license under Iowa Code section 522.1.

"Producer renewal report" includes:

1. The form issued by the division with which producers apply for renewal of a producer license and verify CE credits on file with the division;
2. The continuing education fee described in rule 191—11.14(272C);
3. The license fee set forth in rule 10.25(522); and
4. A letter of certification (nonresidents only).

"Renewal year" means the third year following the issuance or last renewal of an insurance producer license.

"Resident" means a person residing permanently in Iowa.

"Resident state" means the state or district in which a producer resides.

"Retaliatory fee" means a fee equal to the fee which a nonresident person would be charged by such person's state of residence if that person were a resident of Iowa making application for a license in that state.

"Termination" means cancellation of the relationship between the producer and the insurer or the end of the insurance producer license term.

191—10.3(522) Requirement to hold a license.

10.3(1) No person may solicit insurance in Iowa until that person has been issued an Iowa insurance producer license.

10.3(2) A person shall not, for a fee, engage in the business of offering advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages under a policy of insurance that could be issued in Iowa, unless that person holds an Iowa insurance producer license.

10.3(3) A person shall not advise an Iowa resident to cancel, not renew, or otherwise change an existing insurance policy unless that person holds an Iowa insurance producer license regarding the line of insurance for which the advice is given.

10.3(4) This rule does not apply to:

a. A licensed attorney providing surety bonds incident to the attorney's practice.

b. A producer appointed to represent a fraternal benefit society as stipulated under Iowa Code section 512B.31.

c. A person selling a ticket for transportation by a common carrier when the person also sells, in connection with and related to the transportation ticket, a trip accident insurance policy or an insurance policy on personal effects being carried as luggage.

191—10.4(522) Licensing of resident producers.

10.4(1) A person residing in the state of Iowa who desires to sell insurance in Iowa must satisfy the following requirements to obtain an Iowa resident insurance producer license:

a. Be at least 18 years of age,

b. Be of good character and competency,

c. Submit a completed insurance license application form,

d. Pass an examination in the area of qualification sought,

e. Pay the appropriate insurance producer license fee, and

f. If the person was previously licensed as an insurance producer in another state within the past five years, submit a letter of clearance from the last state in which the person held an insurance license.

10.4(2) Any Iowa-licensed nonresident insurance producer who moves to this state and wishes to obtain an Iowa resident insurance producer license must:

a. Comply with the requirements set out in subrule 10.4(1);

b. Submit to the division a letter of clearance or certification from the most recent state in which the applicant held a resident license; and

c. Pass an Iowa laws and regulations examination or other appropriate examination as determined by the division for each of the qualifications for which the producer wishes to obtain a license.

A producer holding only the surety, crop or credit accident, health and life qualification shall not be required to complete an examination.

10.4(3) Examinations are conducted by the outside testing service on contract with the division. Applications and fees for examinations and for initial producer licensing are submitted to the outside testing service. An applicant may request express processing of the application with payment of the appropriate fee set forth in rule 10.25(522).

10.4(4) An application is valid for 90 days after the date the outside testing service receives a properly completed application. If an applicant is unable to pass the necessary examinations within the 90 days, all but $10 of the license fee will be returned.

10.4(5) Examination results are valid for 90 days after the date of the test. Failure to apply for licensure within 90 days after the examination is passed voids the examination results.

10.4(6) Any licensed insurance producer desiring to become licensed in an additional qualification shall:

a. Submit a completed insurance producer license application form to the division's outside testing service specifying the qualifications requested to be added;

b. Pass an examination for each of the qualifications requested to be added; and

c. Pay the fee to amend an insurance producer license.

10.4(7) Qualification in personal lines is a prerequisite for obtaining the commercial lines qualification.

10.4(8) To receive a license for the variable contracts qualification, the applicant must:

a. Hold an active Iowa insurance license with a life insurance qualification;

b. Provide proof of an active Iowa securities license; and

c. File an application with the division to amend the license to add the variable contracts qualification.

If a producer's Iowa securities license terminates, the variable contract qualification automatically terminates effective the day the securities license terminates.

10.4(9) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive an insurance producer license.

10.4(10) A person who resides in an adjacent state and who desires to obtain an Iowa insurance producer license for use solely while working in Iowa and selling insurance to Iowa residents may apply for a special resident license. Applications are filed directly with the division. Applicants must comply with all provisions of this rule. Producers licensed under this subrule are not eligible to receive a letter of certification and may be placed under special supervision restrictions by the division.

191—10.5(522) Licensing of nonresident producers.

10.5(1) A producer not residing in the state of Iowa who desires to sell insurance in Iowa shall satisfy the following requirements to obtain an Iowa nonresident insurance producer license:

a. Be at least 18 years of age;

b. Be of good character and competency;

c. Submit a completed nonresident insurance license application form to the division;

d. Submit a letter of certification; and

e. Pay the appropriate fee.

10.5(2) Any licensed nonresident producer desiring to become licensed in an additional qualification shall submit to the division:

a. A completed application form specifying the qualifications requested to be added;

b. A letter of certification; and

c. The appropriate fee.

10.5(3) An Iowa nonresident insurance producer license is contingent on proper licensure in the nonresident insurance producer's resident state. Termination of the producer's resident license will be deemed the automatic termination of the Iowa nonresident insurance producer license unless the producer timely files a change of address pursuant to subrule 10.14(3).

10.5(4) Qualifications will not be issued to a nonresident producer if the producer's resident state does not issue those qualifications to Iowa resident producers applying for nonresident producer qualifications in that state or if the producer's resident state restricts Iowa resident producers' nonresident activities in that state.

10.5(5) The division may require any documents reasonably necessary to verify the information contained in the application or to verify that the individual making application has the character and competency required to receive an insurance producer license.

191—10.6(522) Issuance of license.

10.6(1) An insurance producer license shall remain in effect for a term of three years, unless revoked or suspended, and may be continually renewed as long as the proper fees are paid and continuing education requirements are met.

10.6(2) An individual insurance producer whose license has lapsed may seek reinstatement as set forth in rule 10.9(522).

10.6(3) The license shall contain the producer's name, address, license number, date of issuance, date of expiration, the qualifications held and any other information the division deems necessary.

191—10.7(522) License qualifications.

10.7(1) The following qualifications are available for issuance in Iowa:

Qualification Number	Qualification
4	Crop
5	Surety
6	Accident and health (insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income)
7	Life (insurance coverage on human lives including benefits of endowment, annuities, equity indexed products, may include benefits in event of death or dismemberment by accident and benefits for disability income)
9	Variable life/variable annuity products (insurance coverage provided under variable life insurance contracts, variable annuities, or any other life insurance or annuity product that reflects the investment experience of a separate account)
16	Personal lines (fire, casualty and auto insurance sold to individuals or families)
17	Commercial lines (fire, casualty and auto insurance sold to businesses) (prerequisite is qualification 14 or 16)
18	Credit accident and health and credit life
19	Legal expense
20	Excess and surplus lines (prerequisite is qualification 14 or 16 and 17)
30	Nonresident property (nonresident producers who sell insurance coverage for the direct or consequential loss of or damage to property of every kind)
31	Nonresident casualty (nonresident producers who sell insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property)

10.7(2) The following qualifications are no longer issued in Iowa but shall remain valid so long as renewal requirements are met:

1	Fire only
2	Casualty only
3	Auto only
8	County mutual
11	All but life and variable contracts
12	Life and accident and health
14	Personal lines (fire, casualty, auto, and crop insurance sold to individuals or families)
15	All but variable contracts

191—10.8(522) License renewal.

10.8(1) Effective January 1, 1999, all new or renewed individual insurance producer licenses will be issued with an expiration date of March 31. All licensees with an expiration date of March 31 must submit a completed producer renewal report on or before March 31 of the year in which the license expires. All licensees currently holding an insurance producer license with an expiration date of April 30 will have until April 30 of the year in which the license expires to renew that license.

10.8(2) The division shall send a producer renewal report form to each licensed producer at the producer's last-known address as it appears in division records. If the division has received notification from the post office that the address of record is no longer valid for any reason, no renewal report form will be mailed.

10.8(3) Failure to renew a license and pay appropriate fees prior to the expiration date printed on the license will result in termination of the license.

191—10.9(522) License reinstatement.

10.9(1) A resident producer may reinstate an expired license until September 30 of the renewal year by proving that during the CE term the producer met the CE requirements found in 191—Chapter 11, and by paying a reinstatement fee and license fees.

10.9(2) A nonresident producer may reinstate a terminated license until September 30 of the renewal year by filing a completed producer renewal report and by paying a reinstatement fee and license renewal fee.

10.9(3) A previously licensed resident producer who does not prove compliance with the CE requirements by September 30 of the renewal year must successfully complete an examination in all qualifications for which license renewal is sought and apply for a new license. If a producer holds both a personal lines and a commercial lines qualification, the producer shall take and pass only the commercial lines examination. If a producer holds an excess and surplus lines designation, the producer shall take and pass both the commercial lines and the excess and surplus lines examinations. If a producer holds both the accident and health and the life insurance qualification, the producer may take the combined life/health examination.

10.9(4) A previously licensed nonresident producer who cannot prove compliance with the CE requirements may either take and successfully complete the appropriate Iowa examination(s) in all qualifications for which license renewal is sought prior to September 30 of the renewal year or may wait until October 1 of the renewal year and apply for a new license.

10.9(5) A producer who surrenders a license and states an intent to exit the insurance business may file a request to reactivate the license. The request must be received at the division within 90 days of the date the license was placed on inactive status. The request will be granted if the former producer is otherwise eligible to receive the license. A fee will be charged for this service.

191—10.10(522) Licensing after revocation or voluntary surrender of license.

10.10(1) A producer who wishes to reactivate a license following a suspension, revocation or voluntary surrender due to a disciplinary matter must satisfactorily complete all terms of the order or agreement which caused the license to become inactive.

10.10(2) To obtain an active license, the producer must apply for a new license and pay all appropriate license fees. If the license has been inactive more than 90 days, the producer will, at a minimum, be required to successfully complete the appropriate examinations before a license will be issued.

191—10.11(522) Exemptions from examination requirement.

10.11(1) An applicant for a resident producer license who previously held a valid Iowa resident license and has since continuously held a resident license in another state is not required to complete Iowa examinations. This exemption applies only to a producer who seeks to return to Iowa as a resident producer within three years from the date the producer surrendered the Iowa resident license.

10.11(2) The examination requirement may be waived for an applicant for a resident producer license who files a request for waiver which states some extenuating circumstance. Upon a finding of good cause, the division may determine that a license should be granted. Licenses granted under this provision may be limited in scope or duration.

191—10.12(522) Letter of clearance.

10.12(1) A resident producer may request a letter of clearance by submitting the following items to the division:

a. A written request, signed by the producer, including the producer's name, insurance producer license number, and the name of the state for which a letter of clearance is sought;

b. The producer's Iowa insurance license, or a signed statement that it has been lost or destroyed;

c. A self-addressed stamped envelope; and

d. The appropriate fee.

10.12(2) Upon issuance of the letter of clearance, the division will cancel all of the producer's company appointments and the license status will be changed from active to inactive.

191—10.13(522) Letter of certification. A resident producer may request a letter of certification by submitting the following items to the division:

1. A written request including the producer's name, insurance producer license number, and the name of the state for which the letter of certification is sought;
2. A self-addressed stamped envelope; and
3. The appropriate fee.

191—10.14(522) Change in name or address.

10.14(1) If a producer's name is changed, the producer must file written notification with the division within 30 days of the change. If the change of name is by court order, a copy of the order must be submitted to the division within 30 days of the change.

10.14(2) Address change. If a resident or nonresident producer's address is changed, the producer must file written notification signed by the producer within 30 days of the address change, stating:

a. Producer's name;

b. License number;

c. Previous resident address; and

d. The new resident address.

10.14(3) If a nonresident producer moves from one state to another state, the producer must file a change of address and a letter of certification from the new resident state within 60 days. No fee or license application is required.

10.14(4) The division will not automatically issue a new license with the producer's new address. A license will be issued upon written request and payment of the fee for a duplicate license.

10.14(5) If a licensed Iowa resident producer moves from Iowa to another state and wishes to become licensed as a nonresident producer in Iowa, the producer may file a change of address and a letter of certification from the new resident state within 60 days of the date the producer established residency in the new resident state.

10.14(6) If a nonresident producer moves into Iowa and wishes to obtain a resident license, the producer must comply with subrule 10.4(1).

191—10.15(522) Reporting of actions.

10.15(1) A producer shall report to the division any administrative action taken against the producer in another jurisdiction or by another Iowa governmental agency within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other legal document.

10.15(2) Within 30 days of the initial pretrial hearing date, a producer shall report to the division any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal document.

10.15(3) A producer shall report to the division all court actions and all CSAC actions taken under or in connection with Iowa Code chapter 261 and shall provide the division copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to 1998 Iowa Acts, chapter 1081, section 7, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the CSAC.

191—10.16(522) Commissions.

10.16(1) An insurance company shall not pay, directly or indirectly, any commission, service fee, brokerage or other valuable consideration to any individual or person for services as an insurance producer unless the individual or person performing the service held a valid license regarding the class of insurance for which the service was rendered at the time the service was performed. A producer may not receive commissions for insurance written with a company until that producer has been appointed with such company. Nothing herein is intended to alter the requirements of Iowa Code section 522.4.

10.16(2) A producer may assign commissions to an entity organized for the purpose of operating that producer's insurance business so long as all of the entity's representatives who personally engage in solicitation activities in Iowa are individually licensed as producers under Iowa law.

10.16(3) A person who is not directly engaged in any activities in Iowa that require an insurance producer license in Iowa is not required to maintain an active insurance producer license in order to receive override commissions or to receive renewal commissions earned while the producer was actively engaged in activities that did require an insurance producer license.

191—10.17(522) Appointments.

10.17(1) Any insurance company admitted to do business in Iowa may file an appointment form to request an appointment.

10.17(2) Appointment fees are set forth in rule 10.25(522). A billing statement will be submitted to insurance companies on a monthly basis and payment is due within 45 days. The failure to timely pay appointment billing statements may subject an insurer to late fees or other sanctions.

10.17(3) When an insurance company terminates its relationship with a producer, the company shall promptly notify the division by submitting an appointment form. The company shall also notify the producer that the producer's appointment has been canceled.

10.17(4) Appointments and cancellations are effective when processed by the division.

10.17(5) When a company loses its identity in a new company by merger, acquisition, or otherwise, the new company must contact the licensing bureau to arrange for reappointment of the producers to the remaining company.

191—10.18(522) Appointment renewal.

10.18(1) On or about May 1 of each year, the division shall provide a list of the producers currently appointed with each insurance company and a billing statement. No amendments may be made to the billing statement.

10.18(2) Payment is due at the division on or before June 30 and must include the billing statement. Renewals filed after June 30 will be subject to a late filing fee.

10.18(3) Failure to pay renewal appointment fees by July 15 will result in cancellation of a company's appointments. Appointments that are canceled due to nonpayment of renewal fees may be reinstated upon payment of a reinstatement fee.

10.18(4) Effective January 1, 2002, appointment renewal reports will be sent to insurance companies on April 1 and payment will be due on or before May 31. Appointments that are not renewed by June 15 will be canceled and may be reinstated only upon payment of renewal and reinstatement fees.

10.18(5) By special arrangement with the division, the appointment renewal process may be conducted via electronic processes.

191—10.19(522) Licensing of an insurance agency.

10.19(1) *Application.* An insurance agency may apply for an Iowa insurance license. For purposes of this rule, upon approval of an application by the division, the insurance agency shall be classified as a producer and shall be subject to all standards of conduct applicable to producers.

10.19(2) *Requirements.* To qualify for such a license, the insurance agency must:

a. File a completed license application on the form prescribed by the division;

b. Designate one officer, owner, partner, or member of the insurance agency, which person also is a producer licensed by the division, as the person who will have full responsibility for the conduct of all business transactions of the insurance agency or of insurance producers affiliated with the insurance agency;

c. File a report of all Iowa-licensed insurance producers affiliated or employed with the insurance agency;

d. For a nonresident insurance agency, file a current certification of insurance agency licensure from the insurance commissioner for the insurance agency's resident state or, if the resident state does not license insurance agencies, file a request for a waiver of this requirement;

e. Pay the insurance agency license fee or the appropriate retaliatory fee;

f. Provide the legal or trade name of the insurance agency and all business names, trade names, service marks, marketing names or other names under which the insurance agency may operate.

10.19(3) *License term.* An insurance agency license issued under this rule shall be effective for three calendar years, including the year of application; and all insurance agency licenses shall expire on December 31 of the third calendar year.

10.19(4) *License renewal.* The division shall mail a renewal notice to the address of the insurance agency on file with the division on or before December 1. The renewal notice will include a current listing of all producers affiliated with that agency. The designated responsible producer shall strike through the names of the insurance producers no longer affiliated with the insurance agency and add the names of any affiliated insurance producers not on the list. The renewal notice form and renewal fee must be received by the division on or before December 31. By arrangement with the division, renewal notices may be issued and submitted electronically.

10.19(5) *License reinstatement.* Insurance agency licenses may be reinstated through January 31 following the third calendar year by payment of the renewal fee and a $100 reinstatement fee. Insurance agencies that fail to complete the reinstatement process by January 31 must submit an application for a new insurance agency license.

10.19(6) *Insurance agency appointments.* Any insurance company admitted to do business in Iowa may appoint an Iowa-licensed insurance agency.

10.19(7) *Business address.* Insurance agencies licensed under this rule must maintain a current business address with the division. If an insurance agency's address is changed, written notification signed by the designated responsible producer must be submitted to the division within 30 days of the address change, stating:

a. The name of the insurance agency;

b. The federal tax identification number of the insurance agency;

c. The previous address of the insurance agency; and

d. The new address of the insurance agency.

10.19(8) *Business name.* Insurance agencies licensed under this rule must maintain a current business name with the division. If an insurance agency changes the name under which it is operating, written notification signed by the designated responsible producer must be submitted to the division within 30 days of the name change on the form prescribed by the division.

191—10.20(522) Violations and penalties.

10.20(1) A producer who sells insurance, directly or indirectly, in violation of this chapter shall be deemed to be in violation of Iowa Code section 522.1 and subject to the penalties provided in Iowa Code section 522.5.

10.20(2) Any company or company representative who aids and abets a producer in the above-described violation shall be deemed to be in violation of Iowa Code section 522.1 and subject to the penalties provided in Iowa Code sections 522.5, 507B.7 and 507B.11.

10.20(3) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a producer's license or may levy a civil penalty, in accordance with Iowa Code sections 522.3 and 522.5 or any combination of actions, for any one or more of the following causes:

a. Providing incorrect, incomplete or materially untrue information on an application for an insurance producer license;

b. Obtaining or attempting to obtain an insurance producer license by fraud, misrepresentation or material misstatement;

c. Improperly using notes, or any other reference material, to complete an examination for an insurance producer license;

d. Submitting a check to the division or to the outside testing service on contract with the division which is returned to the division by a bank without payment, or submitting a payment to the division by credit card which the credit card company does not approve, or canceling or refusing amounts charged to a credit card by the outside testing service on contract with the division where services were received by the producer;

e. Failing to report any administrative action or criminal prosecution taken against the producer or failure to report the termination of a resident insurance producer license;

f. Having an insurance producer's license or its equivalent suspended or revoked by any other state, district or territory of the U.S. or any province of Canada or state of Mexico;

g. Acting as an insurance producer through persons not licensed as insurance producers;

h. Having been convicted of a felony;

i. Failing to timely respond to division inquiries;

j. Refusing to cooperate with division employees in an investigation;

k. Misappropriating, converting, or improperly withholding money or property received in the conduct of insurance business;

l. Intentionally misrepresenting the terms of any actual or proposed insurance policy;

m. Demonstrating incompetence, untrustworthiness or financial irresponsibility in the transaction of insurance business;

n. Using fraudulent, coercive or dishonest practices in the conduct of affairs under the license;

o. Taking any action to circumvent the spirit of these rules and the Iowa insurance statutes or any other action that shows noncompliance with the requirements of Iowa Code chapter 522 or these rules.

10.20(4) In the event that the division denies a request to renew an insurance producer license or denies an application for an insurance producer license, the commissioner shall notify the producer or applicant of the denial or failure to renew in writing, including the reason therefor. The producer or applicant may request a hearing within 30 days of receipt of the notice to determine the reasonableness of the division's action. The hearing shall be held within 30 days of the date of the receipt of the written demand by the applicant and shall be held pursuant to 191—Chapter 3.

10.20(5) The license of an agency may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the insurance division nor was corrective action taken.

191—10.21(252J) Suspension for failure to pay child support.

10.21(1) Upon receipt of a certificate of noncompliance from the child support recovery unit (CSRU), the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current license will be suspended 30 days after the date of the notice. Notice shall be sent to the producer's last-known address by regular mail.

10.21(2) The notice shall contain the following items:

a. A statement that the commissioner intends to suspend the producer's application, request for renewal or current insurance license in 30 days;

b. A statement that the producer must contact the CSRU to request a withdrawal of the certificate of noncompliance;

c. A statement that the producer's application, request for renewal or current license will be suspended if the certificate of noncompliance is not withdrawn;

d. A statement that the producer does not have a right to a hearing before the division, but that the producer may file an application for a hearing in district court pursuant to Iowa Code section 252J.9;

e. A statement that the filing of an application with the district court will stay the proceedings of the division;

f. A copy of the certificate of noncompliance.

10.21(3) The filing of an application for hearing with the district court will stay all suspension proceedings until the division is notified by the district court of the resolution of the application.

10.21(4) If the division does not receive a withdrawal of the certificate of noncompliance from the CSRU or a notice from a clerk of court that an application for hearing has been filed, the division shall suspend the producer's application, request for renewal or current license 30 days after the notice is issued.

10.21(5) Upon receipt of a withdrawal of the certificate of noncompliance from the CSRU, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules.

191—10.22(261) Suspension for failure to pay student loan.

10.22(1) The division shall deny the issuance or renewal of an insurance producer license upon receipt of a certificate of noncompliance from the college student aid commission (CSAC) according to the procedures set forth in 1998 Iowa Acts, chapter 1081. In addition to the procedures contained in those sections, this rule shall apply.

10.22(2) Upon receipt of a certificate of noncompliance from the CSAC according to the procedures set forth in 1998 Iowa Acts, chapter 1081, the commissioner shall issue a notice to the producer that the producer's pending application for licensure, pending request for renewal, or current license will be suspended 60 days after the date of the notice. Notice shall be sent to the producer's last-known address by restricted certified mail, return receipt requested, or by personal service in accordance with the Iowa Rules of Civil Procedure. Alternatively, the applicant or licensed producer may accept service personally or through authorized counsel.

10.22(3) The notice shall contain the following items:

a. A statement that the commissioner intends to suspend the producer's application, request for renewal or current insurance license in 60 days;

b. A statement that the producer must contact the CSAC to request a withdrawal of the certificate of noncompliance;

c. A statement that the producer's application, request for renewal or current insurance producer license will be suspended if the certificate of noncompliance is not withdrawn or, if the current license is on suspension, a statement that the producer's current insurance producer license will be revoked;

d. A statement that the producer does not have a right to a hearing before the division, but that the producer may file an application for a hearing in district court pursuant to 1998 Iowa Acts, chapter 1081, sections 6 and 7;

e. A statement that the filing of an application with the district court will stay the proceedings of the division;

f. A copy of the certificate of noncompliance.

10.22(4) The effective date of revocation or suspension of an insurance producer license, as specified in the notice required by 1998 Iowa Acts, chapter 1081, section 6, shall be 60 days following service of the notice upon the applicant or registrant.

10.22(5) In the event an applicant or licensed producer timely files a district court action following service of a division notice pursuant to 1998 Iowa Acts, chapter 1081, sections 6 and 7, the division's suspension proceedings will be stayed until the division is notified by the district court of the resolution of the application. Upon receipt of a court order lifting the stay, or otherwise directing the division to proceed, the division shall continue with the intended action described in the notice. For purposes of determining the effective date of the denial of the issuance or renewal of an insurance producer license, the division shall count the number of days before the action was filed and the number of days after the court disposed of the action.

10.22(6) If the division does not receive a withdrawal of the certificate of noncompliance from the CSAC or a notice from a clerk of court that an application for hearing has been filed, the division shall suspend the producer's application, request for renewal or current insurance producer license 60 days after the notice is issued.

10.22(7) Upon receipt of a withdrawal of the certificate of noncompliance from the CSAC, suspension proceedings shall halt and the named producer shall be notified that the proceedings have been halted. If the producer's insurance license has already been suspended, the license shall be reinstated if the producer is otherwise in compliance with division rules. All fees required for license renewal or license reinstatement must be paid by producers and all continuing education requirements must be met before an insurance producer license will be renewed or reinstated after the board has suspended or revoked a license pursuant to 1998 Iowa Acts, chapter 1081.

10.22(8) The division shall notify the producer in writing through regular first-class mail, or such other means as the division deems appropriate in the circumstances, within ten days of the effective date of the suspension or revocation of an insurance producer license, and shall similarly notify the producer when the insurance producer license is reinstated following the division's receipt of a withdrawal of the certificate of noncompliance.

10.22(9) Notwithstanding any statutory confidentiality provision, the division may share information with the CSAC for the sole purpose of identifying producers subject to enforcement under Iowa Code chapter 261.

191—10.23(522) Administration of examinations.

10.23(1) The division will enter into a contractual relationship with an outside testing service to provide the licensing examinations for all of the producers' qualifications where an examination is required.

10.23(2) The outside testing service will administer all examinations for license applicants.

10.23(3) Any contract to implement subrule 10.23(1) shall require the outside testing service to:

a. Update, on a continual basis, the licensing examinations,

b. Ensure that the examinations are job-related,

c. Adequately inform the applicants of the procedures and requirements for taking the licensing examinations,

d. Prepare and administer examinations for all lines listed in subrule 10.7(1), except qualifications 9, 30 and 31, and

e. Conform to division guidelines and report to the division on at least a quarterly basis.

191—10.24(522) Forms. An original of each form necessary for the producer's licensure, appointment and cancellation may be requested from the division or downloaded from the division's web site and exact, readable, high-quality copies may be made therefrom. A self-addressed, stamped envelope must be submitted with each request.

191—10.25(522) Fees.

10.25(1) The fee for an examination shall be set by the outside testing service under contract to the division and approved by the division.

10.25(2) The express processing fee for resident producer license applications shall be set by the outside testing service under contract to the division and approved by the division.

10.25(3) The fee for issuance or renewal of an insurance producer license is $50 for three years or, for a nonresident producer, the greater of $50 or the retaliatory fee.

10.25(4) The fee for issuance or renewal of an insurance agency license is $50 for three years or, for a nonresident producer, the greater of $50 or the retaliatory fee.

10.25(5) The fee for reinstatement of an insurance producer license is a total of the renewal fee plus $100.

10.25(6) The fee for issuance of an amended or duplicate license is $10.

10.25(7) The fee for issuance of a clearance letter is $5.

10.25(8) The fee for issuance of a certification letter is $5.

10.25(9) The fee for an appointment or the renewal of an appointment is $5 per producer or the retaliatory fee. There is no fee for the cancellation of an appointment.

10.25(10) The total late fee for filing appointment renewals shall be double the renewal fee. The fee to reinstate appointments that were canceled for failure to renew shall be the late fee plus $100.

10.25(11) The fee to reactivate an inactive license and receive a new license under subrule 10.9(5) is $10.

10.25(12) The division may charge a fee for other services.

These rules are intended to implement Iowa Code chapters 252J and 522.

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◊Two ARCs

CHAPTER 11
CONTINUING EDUCATION FOR INSURANCE PRODUCERS

[Prior to 10/22/86, Insurance Department[510]]

191—11.1(272C) Statutory authority—purpose—applicability.

11.1(1) These rules are adopted pursuant to the general rule-making authority of the insurance commissioner in Iowa Code chapter 505 and the specific authority in Iowa Code chapter 272C to issue rules establishing continuing education requirements for resident and nonresident insurance producers.

11.1(2) The purpose of these rules is to establish requirements by prescribing:

a. The minimum number of continuing education credits that an insurance producer must complete;

b. The procedure and standards that the division will utilize in the approval of continuing education providers and courses;

c. The procedure for establishing that the required continuing education has been completed; and

d. Enforcement criteria and guidelines.

11.1(3) These rules do not apply to:

a. A nonresident producer who resides in a state or district having a continuing education (CE) requirement for insurance producers.

b. A resident producer who holds qualification 18 (credit life, accident and health insurance), 4 (crop insurance) or 19 (legal expense insurance).

c. Licensed attorneys who are also producers who submit proof of completion of continuing legal education for the appropriate calendar years during the CE term, pay the continuing education fee set forth in subrule 11.14(1) and otherwise comply with the producer license renewal procedures set forth in 191—Chapter 10.

d. A producer who serves full-time in the armed forces of the United States of America on active duty during a substantial part of the CE term and who submits evidence of such service.

191—11.2(272C) Definitions.

"Annually" means each calendar year between January 1 and December 31.

"Approved subject" or *"approved course"* means any educational presentation which has been approved by the division.

"Attendance record" means a record on which a CE provider requires attendees of a CE course to sign in at the time of entrance to the course.

"CE" means continuing education as defined in Iowa Code section 272C.1(1).

"CE provider" means any individual or entity that is approved to offer continuing education courses in Iowa.

"CE term" means the three-year period ending December 31 prior to the producer's renewal year.

"Credit" means continuing education credit. One credit is 50 minutes of instruction or reading material in an acceptable topic.

"License" means a document issued by the division which authorizes a person to act as an insurance producer for the lines of insurance specified in such document. The license itself does not provide the producer with any authority to represent or bind an insurance carrier.

"Monitor" or *"approved monitor"* means a CE provider or licensed producer who supervises the conduct of a producer while that producer is completing an examination that is part of a self-study CE course.

"Producer" means a person required to obtain an insurance license under Iowa Code section 522.1.

"Renewal year" means the third year following the issuance or last renewal of an insurance producer license.

"Resident" means a person residing permanently in Iowa.

"Roster" means a listing of all licensed attendees at an approved course and includes the Iowa course number, the producer license number, the date the course was completed, and the actual number of credits earned by each producer.

"Self-study course" means an educational program that consists of a self-study manual and comprehensive examination.

191—11.3(272C) Continuing education requirements for producers.

11.3(1) Effective January 1, 1999, every licensed resident producer must complete a minimum of 36 credits for each CE term in courses approved by the division.

11.3(2) Producers who accumulated CE credits in basic, life/health or property/casualty courses completed prior to January 1, 1999, may cumulate those credits and apply them toward the next CE term requirement.

11.3(3) An instructor of an approved subject is entitled to the same credit as a student completing that subject and may receive such credit once during a CE term.

11.3(4) A producer cannot carry over CE credits earned in excess of the producer's CE term requirements from one CE term to the next.

11.3(5) A producer may receive CE credit for self-study courses. A self-study course is considered completed when the examination is received by the CE provider.

a. A producer may receive CE credit for self-study courses that are part of a recognized national designation program as described in subrule 11.5(5).

b. A producer may receive up to 18 CE credits for self-study courses during a CE term that do not meet the definition of paragraph *"a"* if the producer:

(1) Signs a declaration that the examination was monitored and was completed without any outside assistance, and

(2) Correctly answers at least 70 percent of the questions presented.

11.3(6) A producer may not receive CE credit for courses taken prior to the issuance of an initial license.

11.3(7) A producer cannot receive CE credit for the same course twice in one CE term. A producer cannot receive CE credit both for the classroom portion and for the examination portion of a national designation program as defined in subrule 11.5(5).

11.3(8) A producer may elect to comply with the CE requirements by taking and passing the appropriate licensing examination for each qualification held by the producer. If a producer holds both a personal lines and a commercial lines qualification, the producer shall take and pass only the commercial lines examination. If a producer holds an excess and surplus lines designation, the producer shall take and pass both the commercial lines and the excess and surplus lines examinations. If a producer holds both the accident and health and the life insurance qualification, the producer may take the combined life/health examination. These examinations must be completed prior to the expiration of the producer's license.

191—11.4(272C) Proof of completion of continuing education requirements.

11.4(1) Producers are required to demonstrate compliance with the CE requirements at the time of license renewal. Procedures for completing the license renewal process are outlined in 191—Chapter 10.

11.4(2) Producers are required to maintain a record of all CE courses completed by keeping the original certificates of completion for four years after the end of the year of attendance.

11.4(3) Waiver or extension. A producer who wishes to receive a waiver or extension of time to complete the CE requirements must file a written request with the division. A waiver or extension will not be issued to a producer unless the division finds that good cause exists. Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the CE term because of a long-term, severe illness or incapacity evidenced by a doctor's certification, or extenuating circumstances.

191—11.5(272C) Course approval.

11.5(1) To qualify for approval a course must be designed to expand technical insurance skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

11.5(2) Any approved active CE provider may submit a request for approval of any course, program of study, or subject for continuing education credit to the division on a form prescribed by the division. If an outside vendor is retained by the division for course reviews, requests for approval will be filed directly with the vendor.

11.5(3) Requests for course approval which do not include all required information will be returned as incomplete.

11.5(4) Except as provided in subrule 11.5(5), requests for approval shall be submitted at least 30 days prior to the beginning of the course. Requests received later may be disapproved.

11.5(5) A request for approval of any self-study course that is part of a recognized national designation program may be filed within 60 days after the course is completed. This course will be reviewed and may be approved for up to the number of credits awarded for passage of the national examination in topics that are otherwise approvable under these rules. This subrule applies only to national designation programs such as AAI, ARM, CIC, CEBS, ChFC, CFP, CLU, CPCU, FLMI, LUTCF, RHU and similar courses as determined by the division.

11.5(6) An insurance producer who attends a classroom course offered by a college, university or governmental agency that has not been approved by the division may make application for approval of the course for CE credit. The application must be filed within 60 days of attendance at the course and must contain sufficient materials to allow for a thorough evaluation of the course content and instructor qualifications. To be eligible for CE credit, the course must meet all division guidelines for course approval. All course review fees must be paid by the producer.

11.5(7) A CE course must be offered for a minimum of one credit. Fractional credits will not be awarded. The total credit which may be awarded for a CE course is limited to 36 credits, except that credit for a self-study course as defined in 11.3(5)*"b"* shall be limited to 18 CE credits.

11.5(8) Notification will be sent to the CE provider indicating approval or disapproval. Approved courses will be assigned a course number.

11.5(9) The division may deem the approval of a CE course by another state's insurance division as adequate evidence that a course is eligible for approval in Iowa and award the same number of credits for the course awarded by the other state.

11.5(10) CE courses approved by the division on or after January 1, 1999, may be offered for a 24-month period following the date of approval. CE courses which were approved by the division prior to January 1, 1999, will retain their approved status through May 31, 1999, and will expire on that date if not renewed.

191—11.6(272C) Topic guidelines.

11.6(1) The following course topics are examples of subjects that will qualify for approval:

1. Rating;
2. Tax laws (specifically related to insurance);
3. Policy contents;
4. Proper uses of products;
5. Ethics;
6. Risk management;
7. Iowa insurance laws and administrative rules;
8. Technical information related to the insurance license;
9. Errors and omissions;
10. Estate planning/taxation;
11. Wills and trusts; and
12. Financial planning.

11.6(2) The following course topics are examples of subjects that will not qualify for approval:

1. Sales;
2. Motivation;
3. Prospecting;
4. Psychology;
5. Communication skills;
6. Prelicense training;
7. Supportive office skills (e.g., typing, filing, computers);
8. Personnel management;
9. Recruiting; and
10. Other subjects not related to the insurance license.

191—11.7(272C) CE course renewal. Prior to expiration of the 24-month approval period, a CE provider must apply for renewal of each course with the division or its outside vendor. If a CE provider makes a substantial change to the content of a previously approved course, that course will not be eligible for renewal and must be submitted for a complete review.

191—11.8(272C) Appeals. A CE provider may appeal the amount of CE credit awarded by the division for a course. An appeal must be made in writing to the division within 30 days of the receipt by the CE provider of the notice of CE credit awarded for the course. If the division retains an outside vendor for course reviews, a CE provider must first complete an appeal process with the vendor before filing an appeal with the division.

191—11.9(272C) CE provider approval.

11.9(1) Any school, insurer, industry association or other organization intending to provide a course, program of study, or subject for continuing education credit must submit an application on a form prescribed by the division to become an approved CE provider.

11.9(2) To qualify for approval, a CE provider must demonstrate financial and organizational stability and must agree to comply with the administrative and regulatory constraints set forth by the division.

11.9(3) All CE providers that have been approved in Iowa prior to January 1, 1999, will retain their approved status through May 31, 1999. These CE providers must complete a renewal process by May 31, 1999, to be eligible to continue as a CE provider in Iowa. All new applicants for CE providers approved on or after January 1, 1999, will be eligible to submit courses for approval for the next 24-month period. Each individual course each CE provider intends to offer must be submitted to and approved by the division.

11.9(4) A CE provider must complete the renewal process to be eligible to continue serving as a CE provider. Failure to complete the renewal process will result in the expiration of the CE provider's approval and all previously approved courses.

11.9(5) If an outside vendor is retained by the division for CE provider reviews, requests for approval will be filed directly with the vendor.

191—11.10(272C) CE provider's responsibilities.

11.10(1) A CE provider must ensure that each classroom course is conducted by a qualified and competent instructor.

11.10(2) A CE provider shall obtain and maintain an attendance record for each course for at least four years from the end of the year in which the course is offered. Upon request by the division, a CE provider must submit copies of attendance records.

11.10(3) A CE provider of an approved course is responsible for both the attendance of the students and their attention. A CE provider must refuse to award CE credit for time periods when the student was absent.

11.10(4) A CE provider must verify that each examination submitted for a self-study course contains a declaration by the producer and an approved monitor that the examination was completed without any outside assistance. A CE provider must refuse to award CE credit to producers who fail to submit a properly completed examination or who fail to correctly answer at least 70 percent of the questions on the examination.

11.10(5) Upon request by the division, a CE provider shall videotape a course and such recording shall be promptly submitted to the division.

11.10(6) Upon request by the division, a CE provider must provide a copy of all course materials.

11.10(7) If an approved course is canceled, a CE provider must notify the division, or its outside vendor, and registrants at least 48 hours prior to the course date.

11.10(8) CE providers must submit rosters of all course attendees to the division. These reports must be received at the division by the tenth day of the month following the month in which the course is completed. Rosters shall be submitted in computer disk format or electronically in a manner prescribed by the division.

11.10(9) Once a course is completed, the CE provider shall issue a certificate of completion to each person who satisfactorily completes a course. The certificate must be issued within 20 days of course completion and must be signed by either the course instructor or the CE provider's authorized representative. The certificate of completion used by the CE provider must be in a form or format prescribed by the division.

11.10(10) CE providers must report to the division any disciplinary action taken against that CE provider by another state licensing authority.

191—11.11(272C) Prohibited conduct—CE providers.

11.11(1) CE providers shall not:

a. Advertise, prior to approval, that a course is approved;

b. Prepare and distribute certificates of completion before the course has been conducted;

c. Issue inaccurate or incomplete certificates of completion;

d. Refuse to issue certificates of completion to any participant who satisfactorily completes an approved course, except when subrule 11.10(3) or subrule 11.10(4) applies.

11.11(2) The division may revoke the approval of a continuing education provider or may discipline a continuing education provider, upon a finding that the CE provider:

a. Committed any one or more of the actions prohibited in subrule 11.11(1);

b. Failed to perform any duties required by these rules; or

c. Committed any other action inconsistent with these rules.

11.11(3) If the division finds that a CE provider has violated Iowa laws or these rules, the division shall give written notification to the CE provider of the alleged improper conduct and any discipline or sanction imposed. The CE provider may make a written request for a hearing within 30 days of receipt of the notice. The hearing shall be held within 30 days of the division's receipt of the written demand by the CE provider unless the parties agree to a later hearing date. The hearing shall be conducted pursuant to 191—Chapter 3.

11.11(4) A fine may be imposed against a CE provider if the commissioner finds, after hearing, that the CE provider knew or should have known that it was in violation of this chapter. The division may take any one or more of the following actions upon a finding of a violation of this rule:

a. Require the CE provider to pay a fine not to exceed $1,000 per violation;

b. Require the CE provider to refund the course admission fee to all participants;

c. Require the CE provider to provide a suitable course to replace the course that was found in violation;

d. Withdraw the approval of courses sponsored by such CE provider; or

e. Take other disciplinary action permitted by statute.

191—11.12(272C) Outside vendor. The division may enter into a contractual arrangement with a qualified outside vendor to assist the division with review and renewal of continuing education providers and courses. Fees charged by the outside vendor will be subject to division approval and will be paid by the CE provider. Course approval fees are nonrefundable.

191—11.13(272C) CE course audits. The division may audit any CE course. The cost of the audit will be charged to the CE provider. Any discrepancies between the materials submitted for approval to the division and the content found at the audit, or any evidence of activity set forth in rule 191—11.11(272C), may subject the CE provider or instructor to administrative sanctions. Governmental bodies, such as community colleges and universities, shall not be charged for the cost of an audit.

191—11.14(272C) Fees and costs.

11.14(1) The CE fee that is due with a producer renewal report is $30.

11.14(2) The fee for a report of a producer's CE credits on file with the division is $10.

11.14(3) The fees for approval and renewal of CE providers, CE courses and registration of instructors shall be set by the outside vendor retained by the division and are subject to approval by the division.

11.14(4) The division may charge a fee for other services.

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

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35.4(7) A provision that no action at law or in equity shall be brought to recover under the policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of the policy and that no such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

191—35.5(509) Application and certificates not required. An individual application need not be required from a person covered under a blanket accident and sickness policy, nor shall it be necessary for the insurer to furnish each person a certificate; however, a brochure as herein defined shall be issued to the policyholder for delivery to each person insured as defined in 35.3(1)*"b"* and *"g."*

191—35.6(509) Facility of payment. All benefits under any blanket accident and sickness policy shall be payable to the person insured, to a designated beneficiary or beneficiaries, or to their estate, except that if the person insured be a minor or otherwise not competent to give a valid release, such benefits may be made payable to their parent, guardian or other person actually supporting the insured, designated beneficiary, or beneficiaries. The policy may also provide that all or a portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may with the consent of the insured be paid directly to the hospital or person rendering such services, but the policy may not require that the services be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

These rules are intended to implement Iowa Code section 509.6.

191—35.7(509) General filing requirements.

35.7(1) All filings submitted to the Iowa division of insurance must be accompanied by a prepaid self-addressed envelope large enough to contain all copies of material requested to be returned.

35.7(2) All filings must be accompanied by a cover letter in duplicate which gives the form numbers, titles, effective date of the filing and a brief identifying description of the forms submitted. If the filing amends or changes a prior filing, the previous provisions and new provisions should be described in the cover letter with an explanation for the changes. The date of home state approval or acknowledgment should be included in the cover letter. Home state approval is a prerequisite to review by the division unless the form will not be used in the state of domicile. Any differences between the filing submitted to Iowa and the filing approved in the domiciliary state should be explained.

35.7(3) A copy of each form for which approval is requested shall be transmitted with the filing. If the forms submitted refer to both life and accident and health coverages, the cover letter must be submitted in triplicate with two copies of each form for which approval is requested.

35.7(4) Each filing submitted to the insurance division for approval shall conform to the applicable requirements of Iowa Code chapter 509 and shall be accompanied by a certification of the general counsel or an officer of the submitting company that to the best of their knowledge and belief the policy form is in compliance with the insurance laws of Iowa and these rules.

35.7(5) Each filing must be submitted to the division of insurance not less than 60 days prior to the effective date of the filing. Any deficiencies or discrepancies in the filing will delay final approval. In case of disapproval, the company will be notified by the division.

35.7(6) Any insured or established organization with one or more insureds among its members may file a written request with the commissioner for a hearing on a proposed form filing. A request for hearing must be filed within 20 days of receipt of the form filing by the commissioner.

35.7(7) The commissioner of insurance will hold the hearing within 20 days after receipt of the written demand for a hearing and will give not less than 10 days' written notice of the time and place of the hearing to the person or association filing the demand, to the filing insurer or organization, and to any other person requesting notice. The commissioner of insurance may suspend or postpone the effective date of the proposed filing pending such hearing.

191—35.8 to 35.19 Reserved.

191—35.20(509A) Life and health self-funded plans.

35.20(1) *Scope.* This rule applies to life and accident and health self-funded plans for the state of Iowa, political subdivisions of the state, school corporations, and all other public bodies in the state. Subrule 35.20(2), paragraphs *"a"* through *"g,"* shall not apply to life and accident and health self-funded plans for the state of Iowa.

35.20(2) *Minimum plan standards.* Self-funded life plans subject to this rule shall meet the requirements of Iowa Code sections 509.1, 509.2, 509.4, and 509.15 and rules thereunder. Self-funded accident and health plans subject to this rule shall meet the requirements of Iowa Code sections 509.1 and 509.3 and rules thereunder.

In order to assure that a self-funded life or health plan is able to cover all reasonably anticipated expenses and to avoid liability for the public body, a self-funded health or life plan shall provide that:

a. An annual report showing the starting and ending balance of the fund, deposits of monthly accrual rates and other assets of the fund, and the amount and nature of all disbursements from the fund shall be prepared and submitted to the governing body of the public body. An annual report shall be made to show a separate accounting to reflect all required reserves.

b. Monthly accrual rates shall be established at a satisfactory level to provide funds to cover all claims, reserves, and expenses to operate the plan. Accrual rates shall be reevaluated annually. Accrual rates shall be funded solely through public body contributions or through a combination of employer and employee contributions.

c. A plan fund shall be established exclusively for the deposit of monthly accrual rates and other assets pertaining to the plan. After a self-funded health or life plan is established and as long as any claims may be made against the plan fund, all contributions shall be deposited as collected in the plan fund. The plan fund shall be disbursed only for plan expenses.

d. The following reserves shall be established in the plan fund:

(1) A reserve for claims that have been incurred by participants under the plan, but have not yet been presented for payment. The appropriate amount of this reserve shall be on an actuarially sound basis as determined by an independent actuary, an insurance company, or a nonprofit health service corporation authorized pursuant to chapter 514.

(2) A claims fluctuation reserve for setting aside funds that become available during a month when claims are less than projected for that month. Funds shall be maintained and available for a month where claims exceed those projected for that month.

e. The public body shall obtain a fidelity bond as a guaranty of faithful operation of the self-funded plan by the public body, its officers, agents, and employees.

f. Disbursements from the plan fund shall be made only for the following specified plan expenses:

(1) Payment of claims.
(2) Cost of aggregate excess loss coverage.
(3) Cost of specific excess loss coverage.
(4) Bonding expenses.

d. The plan administrator's name, address and telephone number;

e. A telephone number to call for further information if different from above;

f. Either a statement that the person has at least 18 months' creditable coverage without a significant break of coverage or the date any waiting period and creditable coverage began;

g. The date creditable coverage ended or an indication that the coverage is in force.

35.28(4) Family information. Information for families may be combined on one certificate. Any differences in creditable coverages shall be clearly delineated.

35.28(5) Dependent coverage transition rule. A group health plan, carrier, or ODS that does not maintain dependent data is deemed to have satisfied the requirement to issue dependent certificates by naming the employee and specifying that the coverage on the certificate is for dependent coverage.

35.28(6) Delivering certificates. The certificate shall be given to the individual, plan, carrier, or ODS requesting the certificate. The certificates may be sent by first-class mail. When a dependent's last-known address differs from the employee's last-known address, a separate certificate shall be provided to the dependent at the dependent's last-known address. Separate certificates may be mailed together to the same location.

35.28(7) A group health plan, carrier, or ODS shall establish a procedure for individuals to request and receive certificates.

35.28(8) A certificate is not required to be furnished until the group health plan, carrier, or ODS knows or should have known that dependent's coverage terminated.

35.28(9) Demonstrating creditable coverage. An individual has the right to demonstrate creditable coverage, waiting periods, and affiliation periods when the accuracy of the certificate is contested or a certificate is unavailable. A group health plan, carrier, or ODS shall consider information obtained by it or presented on behalf of an individual to determine whether the individual has creditable coverage.

191—35.29(509) Notification requirements.

35.29(1) A group health plan, carrier, or ODS shall provide written notice to the employee and dependents that includes the following:

a. The existence of any preexisting condition exclusions.

b. A determination that the group health plan, carrier, or ODS intends to impose a preexisting condition exclusion and:

(1) The basis for the decision to do so;

(2) The length of time to which the exclusion will apply;

(3) The right of the employee or dependent to appeal a decision to impose a preexisting condition exclusion;

(4) The right of the person to demonstrate creditable coverage including the right of the person to request a certificate from a prior group health plan, carrier, or ODS and a statement that the current group health plan, carrier, or ODS will assist in obtaining the certificate.

c. That the group health plan, carrier, or ODS will use the alternative method of counting creditable coverage.

d. Special enrollment rights when an employee declines coverage for the employee or dependents.

35.29(2) A group health plan, carrier, or ODS shall provide written notice to the employee and dependents of a modification of a prior creditable coverage decision when the group health plan, carrier, or ODS subsequently determines either no or less creditable coverage existed provided that the group health plan, carrier, or ODS acts according to its initial determination until the final determination is made.

191—35.30(509) Mental health benefits.

35.30(1) A carrier or organized delivery system offering mental health benefits shall not set annual or lifetime dollar limits on mental health benefits that are lower than limits for medical and surgical benefits. Health insurance coverage that does not impose an annual or lifetime dollar limit on medical and surgical benefits shall not impose a dollar limit on mental health benefits.

35.30(2) This rule does not apply to benefits for substance abuse or chemical dependency. This rule does not apply to health insurance coverage if costs increase 1 percent or more due to the application of these requirements. The calculation and notification requirements of the 1 percent exemption shall be performed pursuant to 45 CFR Part 146.136.

35.30(3) This rule applies to health insurance coverage for plan years beginning on or after January 1, 1998, and will cease to apply to benefits for services furnished on or after September 30, 2001.

191—35.31(509) Disclosure requirements. All carriers and ODSs shall include in contracts and evidence of coverage forms a statement disclosing the existence of any prescription drug formularies. Upon request, all carriers and ODSs offering health insurance coverage that includes a prescription drug formulary shall inform enrollees of the coverage, and prospective enrollees of the coverage during any open enrollment period, whether a prescription drug specified in the request is included in such formulary.

All carriers and ODSs shall also disclose the existence of any contractual arrangements providing rebates received by them for prescription drugs or durable medical equipment. Durable medical equipment means equipment that can stand repeated use and is primarily and customarily used to serve a medical purpose and is generally not useful to a person who is not sick or injured or used by other family members and is appropriate for home use for the purpose of improving bodily functions or preventing further deterioration of the medical condition caused by sickness or injury.

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*See IAB Insurance Division

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CHAPTER 35
ENERGY EFFICIENCY PLANNING AND COST REVIEW

199—35.1(476) Policy and purpose. The board deems the implementation of effective energy efficiency plans by utilities and the opportunity of the utilities' customers to participate in and benefit from the energy efficiency plans to be of the highest priority.

These rules are intended to implement Iowa Code sections 476.1, 476.6(17, 19-21), and 476.10A, for gas and electric utilities required by statute to be rate-regulated and to provide the board the necessary information to review each utility's assessment of potential, to develop specific capacity and energy savings performance standards for each utility and to evaluate the appropriateness of each utility's energy efficiency plan.

199—35.2(476) Definitions. The following words and terms, when used in this chapter, shall have the meanings shown below:

"After-tax discount rate" means the utility's weighted cost of capital reduced by the utility's composite federal and state income tax rate multiplied by the utility's weighted cost of debt.

"Assessment of potential" means development of energy and capacity savings available from actual and projected customer usage by cost-effectively applying commercially available technology and improved operating practices to energy-using equipment and buildings and considering market factors including, but not limited to, the effects of rate impacts, the need to capture lost opportunities, the nonenergy benefits of measures, uncertainty associated with industry restructuring, the strategic value of energy efficiency to the utility, and other market factors.

"Avoided cost" means the cost the utility would have to pay to provide energy and capacity from alternative sources of supply available to utilities as calculated pursuant to the formulas in subrules 35.9(7) and 35.10(4).

"Benefit/cost ratio" means the ratio of the present value of benefits to the present value of costs.

"Benefit/cost tests" means one of the four acceptable economic tests used to compare the present value of applicable benefits to the present value of applicable costs of an energy efficiency program or plan. The tests are the participant test, the ratepayer impact test, the societal test, and the utility cost test. A program or plan passes a benefit/cost test if the benefit/cost ratio is equal to or greater than one.

"Capacity purchase" or *"sale commitment"* means electric generating capacity which a utility has committed to purchase or sell by means of contracts or other enforceable agreements.

"Contract deliverability" means the maximum firm capacity which a utility has under contract with its suppliers.

"Customer incentive" means an amount or amounts provided to or on behalf of customers for the purpose of having customers participate in energy efficiency programs. Incentives include, but are not limited to, rebates, loan subsidies, payments to dealers, rate credits, bill credits, the cost of energy audits, the cost of equipment given to customers, and the cost of installing such equipment. Customer incentives do not include the cost of information provided by the utility, nor do they include customers' bill reductions associated with reduced energy usage due to the implementation of energy efficiency programs. For the purposes of energy efficiency pricing strategies, incentive means the difference between a customer's bill on an energy efficiency customized rate and the customer's bill on a traditional rate considering factors such as the elasticity of demand.

"Customer persistence" means a customer's consistent use of energy efficient equipment or operating practices over time. For example, a nonpersistent customer may initially adopt the use of compact fluorescent lights, but replace efficient lights with incandescent lights when the former wear out. By contrast, a persistent customer will replace burned out efficient lamps with energy saving lamps after the initial trial.

"Customer's side of the meter" means point of delivery. For reference, the utility's side of the meter refers to activities from and including generation or energy supply up to the point where the customer takes delivery, which may be the customer's billing meter or an unmetered fixture.

"Economic potential" means the energy and capacity savings that result in future years when measures are adopted or applied by customers at the time it is economical to do so. For purposes of this chapter, economic potential may be determined by comparing the utility's avoided cost savings to the incremental cost of the measure.

"Energy efficiency measures" means activities on the customers' side of the meter which reduce customers' energy use or demand including, but not limited to, end-use efficiency improvements; load control or load management; thermal energy storage; or pricing strategies.

"Energy savings performance standards" means those standards which shall be cost-effectively achieved, with the exception of low-income weatherization and tree planting programs, and includes the annual capacity savings stated in either kW or dth/day or Mcf/day and the annual energy savings stated in either kWh or dth or Mcf.

"Firm throughput" means firm sales of gas and gas transported over the utility's distribution facilities under firm transportation arrangements.

"Fixed operations and maintenance costs" means operations and maintenance costs which do not vary with changes in energy generation or supply.

"Free riders" means those program participants who would have done what an energy efficiency program intends to promote even without the program.

"Gross operating revenues" means all revenues from intrastate operations includable in the operating revenue accounts of the prescribed uniform system of accounts except:

1. Provisions for uncollectible revenues;
2. Amounts included in the accounts for interdepartmental sales and rents;
3. Wholesale revenue;
4. Revenues from the sale of natural gas used as a feedstock by customers; and
5. Revenues from the sale of transportation service.

"Incremental cost" means the difference in the customer's cost between a less energy efficient measure and a more energy efficient measure.

"Marginal energy cost" for a gas utility means the cost associated with supplying the next thousand cubic feet (Mcf) or dekatherm (dth) of gas.

"Marginal energy cost" for an electric utility means the energy or fuel cost associated with generating or purchasing the next kWh of electricity.

"Market barrier" means a real or perceived impediment to the adoption of energy efficient technologies or energy efficient behavior by consumers.

"Net societal benefits" means the present value of benefits less the present value of costs as defined in the societal test.

"Off-peak period" means the days and weeks not included in the gas utility's peak period.

"Participant test" means an economic test used to compare the present value of benefits to the present value of costs over the useful life of an energy efficiency measure or program from the participant's perspective. Present values are calculated using a discount rate appropriate to the class of customers to which the energy efficiency measure or program is targeted. Benefits are the sum of the present values of the customers' bill reductions, tax credits, and customer incentives for each year of the useful life of an energy efficient measure or program. Costs are the sum of present values of the customer participation costs (including initial capital costs, ongoing operations and maintenance costs, removal costs less a salvage value of existing equipment, and the value of the customer's time in arranging installation, if significant) and any resulting bill increases for each year of the useful life of the measure or program. The calculation of bill increases and decreases must account for any time-differentiated rates to the customer or class of customers being analyzed.

"Peak day demand" means the amount of natural gas required to meet firm customers' maximum daily consumption.

"Peak period" for a gas utility means the days and weeks when the gas utility's highest firm throughput is likely to occur.

"Phase-in technical potential" means the technical potential for energy and capacity savings from the adoption of commercially available technology and operating practices when existing equipment is replaced or new equipment is installed. For example, if an energy-using unit of equipment has a ten-year lifetime, the phase-in technical potential in any one year might be one-tenth of the total number of such units in existence plus units projected to be installed.

"Process-oriented industrial assessment" means an analysis which promotes the adoption of energy efficiency measures by examining the facilities, operations and equipment of an industrial customer in which energy efficiency opportunities may be embedded and which includes:

1. The identification of opportunities which may provide increased energy efficiency in an industrial customer's production process from the introduction of materials to the final packaging of the product for shipping by:
   - Directly improving the efficiency or scheduling of energy use;
   - Reducing environmental waste; and
   - Technological improvements designed to increase competitiveness and to achieve cost-effective product quality enhancement;
2. The identification of opportunities for an industrial customer to improve the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope;
3. The identification of cost-effective opportunities for using renewable energy technology in "1" and "2" above.

"Program delivery and support mechanisms" means methods used by the utility to promote the adoption of energy efficiency options by customers. Program delivery and support mechanisms may include but are not limited to informational, educational, or demonstration techniques, technical assistance, or energy audits. Program delivery and support mechanisms may target specific options and markets, or address a variety of options across any number of energy efficiency programs.

"Purchased gas adjustment (PGA) year" means the 12-month period beginning September 1 and ending August 31.

"Ratepayer impact measure test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency measure or program from a rate level or utility bill perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of utility avoided capacity and energy costs (excluding the externality factor) and any revenue gains due to the energy efficiency measures for each year of the useful life of the measure or program. Costs are the sum of the present values of utility increased supply costs, revenue losses due to the energy efficiency measures, utility program costs, and customer incentives for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy, increased utility supply costs, and revenue gains and losses must use the utility costing periods.

"Revenue requirement per net kW per year" for an electric utility means an annual cost amount calculated by the economic carrying charge for each year of the supply option's life such that when each annual amount is discounted by the utility's after-tax discount rate the sum of the discounted amounts equals the supply option's capital cost inclusive of income taxes on the return.

"Saturation" or *"market saturation"* means a comparison (using fractions or percentages) of the number of units of a particular type of equipment or building component to the total number of units in use which perform the particular function under study.

"Seasonal peak demand" for an electric utility means the maximum hourly demand that occurred during that season.

"Sensitivity analysis" means a set of evaluation methods or procedures which provides an estimation of the sensitivity of final results to changes in particular input data or assumptions.

"Societal test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency measure or program from a societal perspective. Present values are calculated using a 12-month average of the 10-year and 30-year Treasury Bond rate as the discount rate. The average shall be calculated using the most recent 12 months at the time the utility calculates its benefit/cost tests for its energy efficiency plan in subrule 35.8(6). Benefits are the sum of the present values of the utility avoided supply and energy costs including the effects of externalities. Costs are the sum of the present values of utility program costs (excluding customer incentives), participant costs, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

"System energy losses" for an electric utility means net energy which is generated, purchased, or interchanged by a utility but which is not delivered either to ultimate customers or used for interdepartmental sales expressed as a percentage of net energy.

"Take-back effect" means a tendency to increase energy use in a facility, or for an appliance, as a result of increased efficiency of energy use. For example, a customer's installation of high efficiency light bulbs and then operating the lights longer, constitutes "taking-back" some of the energy otherwise saved by the efficient lighting.

"Target market" means a group of energy users who are the intended participants in an energy efficiency program.

"Technical potential" means the demand and energy savings which could occur if every existing piece of equipment or operating practice were changed to a technically feasible level of energy efficiency.

"Technically viable" means that a measure is appropriate for customers' equipment and buildings and Iowa's climatic conditions.

"Total throughput" means all volumes of natural gas flowing through the utility's distribution system.

"Transportation volume" means the volume of natural gas flowing through the utility's distribution system which is not owned or sold by the utility.

"Useful life" means the number of years an energy efficiency measure will produce benefits.

"Utility cost test" means an economic test used to compare the present value of the benefits to the present value of the costs over the useful life of an energy efficiency measure or program from the utility revenue requirement perspective. Present values are calculated using the utility's discount rate. Benefits are the sum of the present values of each year's utility avoided capacity and energy costs (excluding the externality factor) over the useful life of the measure or program. Costs are the sum of the present values of the utility's program costs, customer incentives, and any increased utility supply costs for each year of the useful life of the measure or program. The calculation of utility avoided capacity and energy and increased utility supply costs must use the utility costing periods.

"Variable operations and maintenance costs" means operations and maintenance costs which vary with the amount of energy generated or supplied.

199—35.3(476) Applicability. Each gas or electric utility required by statute to be rate-regulated shall file an assessment of potential energy and capacity savings and an energy efficiency plan which shall include economically achievable programs designed to attain the performance standards developed by the board. Combination electric and gas utilities may file combined assessments of potential and energy efficiency plans. Combined plans shall specify which energy efficiency programs are attributable to the electric operation, which are attributable to the natural gas operation, and which are attributable to both. If a combination utility files separate plans, the board may consolidate the plans for purposes of review and hearing. The board will conduct a contested case proceeding for the purpose of (1) developing specific capacity and energy savings performance standards for each utility and (2) reviewing energy efficiency plans and budgets designed to achieve those savings.

199—35.4(476) Schedule of filings.

35.4(1) The board will schedule each utility's filing of an assessment of potential and energy efficiency plan and each utility's prudence review proceeding by order.

35.4(2) Initial cost recovery proceedings. Rescinded IAB 4/28/93, effective 6/2/93.

35.4(3) Subsequent biennial filings. Rescinded IAB 4/28/93, effective 6/2/93.

35.4(4) Written notice of assessment of potential and energy efficiency plan. No more than 62 days prior to and prior to filing its assessment of potential and energy efficiency plan, a utility shall mail or deliver a written notice of its filing to all affected customers. The notice shall be submitted to the board for approval not less than 30 days prior to proposed notification of customers. The notice shall, at a minimum, include the following elements:

a. A statement that the utility will be filing an assessment of potential and energy efficiency plan with the board;

b. A brief identification of the proposed energy efficiency programs and the estimated annual cost of the proposed energy efficiency programs during the five-year budget time frame;

c. The estimated annual rate and bills impacts of the proposed energy efficiency programs on each class of customer; and the estimated annual jurisdictional rate impact for each major customer grouping in dollars and as a percent, with the proposed actual increases to be filed at the time of notice to customers;

d. A statement that the board will be conducting a contested case proceeding to review the application and that a customer may file a written objection and request a consumer comment hearing; and

e. The telephone numbers and addresses of utility personnel, the board and the consumer advocate, for the customer to contact with questions.

199—35.5(476) Required programs. Rescinded IAB 1/13/99, effective 2/17/99.

199—35.6(476) Procedures. The following procedures shall govern the board's determination of performance standards and review of energy efficiency plans:

35.6(1) *Collaboration.* A utility shall offer interested persons the opportunity to participate in the development of its energy efficiency plan. At a minimum, a utility shall provide the opportunity to offer suggestions for programs and for the assessment of potential and to review and comment on a draft of the assessment of potential and energy efficiency plan proposed to be submitted by the utility. The utility may analyze proposals from participants to help determine the effects of the proposals on its plan. A participant shall have the responsibility to provide sufficient data to enable the utility to analyze the participant's proposal. The opportunity to participate shall commence at least 180 days prior to the date the utility submits its assessment of potential and plan to the board.

35.6(2) *Contested case proceeding.* Within 30 days after filing, each application for approval of an assessment of potential and accompanying energy efficiency plan which meets the requirements of this chapter shall be docketed as a contested case proceeding. All testimony, exhibits, and work papers shall be filed with each application for approval of an assessment of potential and energy efficiency plan. The energy bureau of the division of energy and geological resources of the Iowa department of natural resources shall be considered a party to the proceeding. Any portion of any plan, application, testimony, exhibit, or work paper which is based upon or derived from a computer program shall include as a filing requirement the name and description of the computer program, and a disk and a hard copy of all reasonably necessary data inputs and all reasonably necessary program outputs associated with each such portion. One copy of the computer information will be filed with the board, one copy of this information will be provided to the energy bureau of the division of energy and geological resources of the Iowa department of natural resources, and one copy of this information will be provided to the consumer advocate. Further copies shall be provided by the utility upon request by the board or the consumer advocate. The proceeding shall follow the applicable provisions of 199 IAC Chapter 7.

35.6(3) *Review of proposals offered by third parties.* The consumer advocate or a third-party intervenor may propose approval, modification, or rejection of a utility's assessment of potential and accompanying energy efficiency plan. All testimony, exhibits, and work papers shall be filed with any proposal. The testimony, exhibits, and work papers of the consumer advocate or a third-party intervenor shall include, if applicable:

a. An analysis showing why rejection of the proposed utility assessment of potential and plan is appropriate;

b. A statement of any proposed modification or alternate plan and why approval is appropriate;

c. An estimated implementation schedule for any modification or alternate plan; and

d. A statement of the projected costs and benefits and benefit/cost test results as a result of any modification or alternate plan and the amount of difference from the utility's projected costs and benefits.

35.6(4) *Modification after implementation.* An approved energy efficiency plan and budget may be modified during implementation if the modification is approved by the board. The consumer advocate or the utility may file either a separate or joint application for modification. The board, on its own motion, may consider modification of the energy efficiency plan and budget.

a. The utility shall file an application to modify if any one of the following conditions occurs or is projected to occur during the current or subsequent calendar year of implementation of its plan:

(1) The total annual plan budget has changed or will change by a factor of at least plus or minus 5 percent;

(2) The budget per customer class or grouping has changed or will change by a factor of at least plus or minus 10 percent;

(3) An approved program is eliminated or a new program is added.

b. All applications to modify shall be filed in the same docket in which the energy efficiency plan was approved. All parties to the docket in which the energy efficiency plan was approved shall be served copies of the application to modify and shall have 14 days to file their objection or agreement. Failure to file timely objection shall be deemed agreement.

c. Each application to modify an approved energy efficiency plan shall include:

(1) A statement of the proposed modification and the party's interest in the modification;

(2) An analysis supporting the requested modification;

(3) An estimated implementation schedule for the modification; and

(4) A statement of the effect of the modification on attainment of the utility's performance standards and on projected results of the utility's implementation of its plan.

d. If the board finds that reasonable grounds exist to investigate the proposed modification, a procedural schedule shall be set within 30 days after the application is filed.

e. If an application to modify is filed and the board finds that there is no reason to investigate, then the board shall issue an order stating the reasons for the board's decision relating to the application.

f. If the board rejects or modifies a utility's plan, the board may require the utility to file a modified plan and may specify the minimum acceptable contents of the modified plan.

199—35.7(476) Waivers. Upon request and for good cause shown, the board may waive any energy efficiency plan requirement. If the waiver request is granted, a copy of the board order shall be filed with the energy efficiency plan.

199—35.8(476) Assessment of potential and energy efficiency plan requirements. A utility's plan shall include a range of programs which address all customer classes across its Iowa jurisdictional territory. At a minimum, the plan shall include a program for qualified lower-income residential customers, including a cooperative program with any community action agency within the utility's service area. The utility shall consider including in its plan a program for tree planting. Advertising which is part of an approved energy efficiency program is deemed to be advertising required by the board for purposes of Iowa Code section 476.18(3). The utility's assessment of potential and energy efficiency plan shall include a summary not to exceed five pages in length written in a nontechnical style for the benefit of the general public. Each utility's assessment of potential and accompanying energy efficiency plan shall include the following:

35.8(1) *Assessment of potential and determination of performance standards.* The utility shall file with the board an assessment of the potential for energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility's assessment shall address the potential energy and capacity savings in each of ten years subsequent to the year the assessment is filed. Economic and impact analyses of measures shall address benefits and costs over the entire estimated lives of energy efficiency measures. At a minimum, each utility's assessment of potential shall include data and analyses as follows:

a. A base case survey projecting annual peak demand and energy use of customers' existing and estimated new energy-using buildings and equipment. The base case survey shall identify the annual peak demand and energy savings projected to occur from customers' adoption of measures in the absence of new or continued demand-side management programs by the utility.

b. A survey to identify and describe all commercially available energy efficiency measures and their attributes needed to perform an assessment of potential energy and capacity savings, including but not limited to all relevant costs of the measures, utility bill savings, utility avoided cost savings, peak demand and energy savings, measures' lifetimes, current market saturation of the measures, market availability of the measures, and non-energy-related features, costs and benefits.

c. A description of the methods and results for any screening or selection process used to identify technically viable energy efficiency measures. The utility shall explain its elimination of measures from further consideration. The utility shall provide an assessment of either annual economic potential or annual phase-in technical potential for peak demand and energy savings from projected adoption of technically viable measures, describing its methods and assumptions.

d. An assessment of the annual potential for utility implementation of the following special programs:

(1) Peak demand and energy savings from programs targeted at qualified low-income customers, including cooperative programs with community action agencies;

(2) Implementation of tree-planting programs; and

(3) Peak demand and energy savings from cost-effective assistance to homebuilders and homebuyers in meeting the requirements of the Iowa model energy code.

e. An identification of the utility's proposed performance goals for peak demand and energy savings from utility implementation of cost-effective energy efficiency programs and special programs. The utility shall identify annual goals, by energy efficiency program and total plan, for five years subsequent to the year of the filing. The utility may constrain or accelerate projected utility implementation of programs from estimates of economic or phase-in potential, based on its assessment of market potential. The utility may consider market factors including, but not limited to, market barriers to implementation of programs, the effects of rate impacts, lost opportunities which decrease future implementation of measures or programs, the nonenergy benefits and detriments of programs, uncertainty associated with industry restructuring, the strategic value of energy efficiency to the utility and other market factors it deems relevant. The utility shall fully describe its data and assumptions. In lieu of the data required in (1) through (5) below, the utility may reference relevant data and analyses filed in its energy efficiency plan, pursuant to subrule 35.8(2). The utility shall describe its analyses and results for factors relevant to the development of performance goals, including:

(1) Cost-effectiveness tests. The utility shall analyze for cost-effectiveness proposed programs, using the societal, utility, ratepayer impact and participant tests. The utility's analyses shall use inputs or factors realistically expected to influence cost-effective implementation of programs, including the avoided costs filed pursuant to rules 35.9(476) and 35.10(476) or avoided costs determined by the utility's alternative method. If the utility uses a test other than the societal test as the criterion for determining the cost-effectiveness of utility implementation of energy efficiency programs and plans, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test.

(2) Cost-effectiveness threshold(s). The utility shall describe and justify the level or levels of cost-effectiveness, if greater or less than a benefit/cost ratio of 1.0, to be used as a threshold for cost-effective utility implementation of programs. The utility's threshold of cost-effectiveness for its plan as a whole shall be a benefit/cost ratio of 1.0 or greater.

(3) A description of the proposed programs to be implemented, proposed utility implementation techniques, the number of eligible participants and proposed rates of participation per year, and the estimated annual peak demand and energy savings.

(4) The budgets or levels of spending for utility implementation of programs, including proposed special programs addressing low-income, tree-planting and home-building assistance measures.

(5) The rate impacts and average bill impacts, by customer class, resulting from utility implementation of programs.

f. An optional sensitivity analysis. If the utility's proposed standards differ from the level of energy and capacity savings resulting from the utility's current plan by more than 25 percent, the utility shall provide a sensitivity analysis identifying key variables, including levels of spending, and showing their impact on cost-effectiveness, energy savings, and capacity savings. The purpose of the sensitivity analysis shall be to explore the range of potential for utility implementation of programs.

35.8(2) *Proposed energy efficiency plan, programs, and budget and cost allocation.* The utility shall file with the board an energy efficiency plan listing all proposed new, modified, and existing energy efficiency programs. The following information shall be provided:

a. The analyses and results of cost-effectiveness tests for the plan as a whole and for each program. Low-income and tree-planting programs shall not be tested for cost-effectiveness, unless the utility wishes to present the results of cost-effectiveness tests for informational purposes. The utility shall analyze proposed programs and the plan as a whole for cost-effectiveness, using the societal, utility, ratepayer impact and participant tests. If the utility uses a test other than the societal test as the criterion for determining the cost-effectiveness of utility implementation of energy efficiency measures, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test. The utility shall describe and justify the level or levels of cost-effectiveness, if greater or less than a benefit/cost ratio of 1.0, to be used as a threshold for determining cost-effectiveness of programs. The utility's threshold of cost-effectiveness for its plan as a whole shall be a benefit/cost ratio of 1.0 or greater.

The utility shall provide an explanation of its sensitivity analysis identifying key variables showing the impact on cost-effectiveness. If appropriate and calculable, the utility shall adjust the energy and demand savings for the interactive effects of various measures contained within each program and shall adjust energy and demand savings of the plan as a whole for the interactive effects of programs. For the plan as a whole and for each program, the utility shall provide:

(1) Cost escalation rates for each cost component of the benefit/cost test that reflect changes over the lives of the options in the potential program and benefit escalation rates for benefit components that reflect changes over the lives of the options;

(2) Societal, utility cost, ratepayer impact measure, and participant test benefit/cost ratios; and

(3) Net societal benefits.

b. Descriptions of each program. If a proposed program is identical to an existing program, the utility may reference the program description currently in effect. A description of each proposed program shall include:

(1) The name of each program;

(2) The customers each program targets;

(3) The energy efficiency measures promoted by each program;

(4) The proposed utility promotional techniques, including the rebates or incentives offered through each program; and

(5) The proposed rates of program participation or implementation of measures, including both eligible and estimated actual participants.

c. The estimated annual energy and demand savings for the plan and each program for each year the measures promoted by the plan and program will produce benefits. The utility shall estimate gross and net capacity and energy savings, accounting for free riders, take-back effects, and measure degradation.

d. The budget for the plan and for each program for each year of implementation or for each of the next five years of implementation, whichever is less, itemized by proposed costs. The budget shall be consistent with the accounting plan required pursuant to subrule 35.12(1). The budget may include the amount of the remittance to the Iowa energy center and the center for global and regional environmental research and the alternative energy revolving loan fund. The plan and program budgets shall be categorized into:

(1) Planning and design costs;
(2) Administrative costs;
(3) Advertising and promotional costs;
(4) Customer incentive costs;
(5) Equipment costs;
(6) Installation costs;
(7) Monitoring and evaluation costs; and
(8) Miscellaneous costs.

Cost categories shall be further described by the following subcategories:

Classifications of persons to be working on energy efficiency programs, full-time equivalents, dollar amounts of labor costs, and purpose of work;

Type and use of equipment and other assets, including types of assets required and use of asset; and the name of outside firm(s) employed and a description of service(s) to be provided.

e. The rate impacts and average bill impacts, by customer class, resulting from the plan and each program.

f. A monitoring and evaluation plan. The utility shall describe in complete detail how it proposes to monitor and evaluate the implementation of its proposed programs and plan and shall show how it will accumulate and validate the information needed to measure the plan's performance against the standards. The utility shall propose a format for monitoring reports and describe how annual results will be reported to the board on a detailed, accurate and timely basis.

35.8(3) to **35.8(8)** Rescinded IAB 1/13/99, effective 2/17/99.

35.8(9) *Coordination with other utilities and participation in plan preparation.* The utility shall provide the following reports:

a. A report which explains the results of attempts to coordinate energy efficiency programs with other gas or electric utilities sharing its service territory within the boundaries of incorporated municipalities having a population of 1000 or more individuals.

b. A report on the participation of interested persons in the preparation of the assessment of potential and energy efficiency plan pursuant to subrules 35.8(1) and 35.8(2). The report shall identify the persons with whom the utility consulted, the date and type of meetings held or other contacts made, and the results of the meetings and contacts.

35.8(10) *Pilot projects.* Pilot projects may be included as a program, if justified by the utility. Pilot projects shall explore areas of innovative or unproven approaches, as provided in Iowa Code section 476.1. The proposed evaluation procedures for the pilot project shall be included.

35.8(11) to **35.8(13)** Rescinded IAB 1/13/99, effective 2/17/99.

199—35.9(476) Additional requirements for electric utilities. In addition to the requirements in rule 35.8(476), a plan for an electric utility shall include the following information:

35.9(1) *Load forecast.* Information specifying forecasted demand and energy use on a calendar year basis which shall include:

a. A statement, in numerical terms, of the utility's current 20-year forecasts including reserve margin for summer and winter peak demand and for annual energy requirements. The forecast shall not include the effects of the proposed programs in subrule 35.8(8), but shall include the effects to date of current ongoing utility energy efficiency programs.

b. The date and amount of the utility's highest peak demand within the past five years, stated on both an actual and weather-normalized basis. The utility shall include an explanation of the weather-normalization procedure.

c. A comparison of the forecasts made for each of the previous five years to the actual and weather-normalized demand in each of the previous five years.

d. An explanation of all significant methods and data used, as well as assumptions made, in the current 20-year forecast. The utility shall file all forecasts of variables used in its demand and energy forecasts and shall separately identify all sources of variables used, such as implicit price deflator, electricity prices by customer class, gross domestic product, sales by customer class, number of customers by class, fuel price forecasts for each fuel type, and other inputs.

e. A statement of the margins of error for each assumption or forecast.

f. An explanation of the results of sensitivity analyses performed, including a specific statement of the degree of sensitivity of estimated need for capacity to potential errors in assumptions, forecasts and data. The utility may present the results and an explanation of other methods of assessing forecast uncertainty.

35.9(2) *Class load data.* Load data for each class of customer that is served under a separate rate schedule or is identified as a separate customer class and accounts for 10 percent or more of the utility's demand in kilowatts at the time of the monthly system peak for every month in the year. If those figures are not available, the data shall be provided for each class of customer that accounts for 10 percent of the utility's electric sales in kilowatt hours for any month in the reporting period. The data shall be based on a sample metering of customers designed to achieve a statistically expected accuracy of plus or minus 10 percent at the 90 percent confidence level for loads during the yearly system peak hour(s). These data must appear in the 1992 and all subsequent filings, except as provided for in paragraph 35.9(2)*"c."*

a. The following information shall be provided for each month of the previous year:

(1) Total system class maximum demand (in kilowatts), number of customers in the class, and system class sales (in kilowatt-hours);

(2) Jurisdictional class contribution (in kilowatts) to the monthly maximum system coincident demand as allocated to jurisdiction;

(3) Total class contribution (in kilowatts) to the monthly maximum system coincident demand, if not previously reported;

(4) Total system class maximum demand (in kilowatts) allocated to jurisdiction, if not previously reported; and

(5) Hourly total system class loads for a typical weekday, a typical weekend day, the day of the class maximum demand, and the day of the system peak.

b. The company shall file an explanation, with all supporting work papers and source documents, as to how class maximum demand and class contribution to the maximum system coincident demand were allocated to jurisdiction.

c. The load data for each class of customer described above may be gathered by a multijurisdictional utility on a uniform integrated system basis rather than on a jurisdictional basis. Adjustments for substantive and unique jurisdictional characteristics, if any, may be proposed. The load data for each class of customer shall be collected continuously and filed annually, except for the period associated with necessary interruptions during any year to modify existing or implement new data collection methods. Data filed for the period of interruption shall be estimated. An explanation of the estimation technique shall be filed with the data. To the extent consistent with sound sampling and the required accuracy standards, an electric public utility is not required to annually change the customers being sampled.

35.9(3) *Existing capacity and firm commitments.* Information specifying the existing generating capacity and firm commitments to provide service. The utility shall include in its filing a copy of its most recent Load and Capability Report submitted to the Mid-continent Area Power Pool (MAPP).

a. For each generating unit owned or leased by the utility, in whole or in part, the plan shall include the following information:

(1) Both summer and winter net generating capability ratings as reported to the National Electric Reliability Council (NERC).

(2) The estimated remaining time before the unit will be retired or require life extension.

b. For each commitment to own or lease future generating firm capacity, the plan shall include the following information:

(1) The type of generating capacity.

(2) The anticipated in-service year of the capacity.

(3) The anticipated life of the generating capacity.

(4) Both summer and winter net generating capability ratings as reported to the NERC.

c. For each capacity purchase commitment which is for a period of six months or longer the plan shall include the following information:

(1) The entity with whom commitments have been made and the time periods for each commitment.

(2) The capacity levels in each year for the commitment.

d. For each capacity sale commitment which is for a period of six months or longer the following information:

(1) The entity with whom a commitment has been made and the time periods for the commitment.

(2) The capacity levels in each year.

(3) The capacity payments to be received per kW per year in each year.

(4) The energy payments to be received per kWh per year.

(5) Any other payments the utility receives in each year.

35.9(4) *Capacity surpluses and shortfalls.* Information identifying projected capacity surpluses and shortfalls over the 20-year planning horizon which shall include:

a. A numerical and graphical representation of the utility's 20-year planning horizon comparing forecasted demand in each year from subrule 35.9(1) to committed capacity in each year from paragraphs 35.9(3)*"a"* to 35.9(3)*"d."* Forecasted peak demand shall include reserve requirements.

b. For each year of the 20-year planning horizon, the plan shall list in MW the amount that committed capacity either exceeds or falls below the forecasted demand.

35.9(5) *Capacity outside the utility's system.* Information about capacity outside of the utility's system that could meet its future needs including, but not limited to, cogeneration and independent power producers, expected to be available to the utility during each of the 20 years in the planning horizon. The utility shall include in its filing a copy of its most recent Load and Capability Report submitted to the Mid-continent Area Power Pool (MAPP).

35.9(6) *Future supply options and costs.* Information about the new supply options and their costs identified by the utility as the most effective means of satisfying all projected capacity shortfalls in the 20-year planning horizon in subrule 35.9(4) which shall include:

a. The following information which describes each future supply option as applicable:

(1) The anticipated year the supply option would be needed.

(2) The anticipated type of supply option, by fuel.

(3) The anticipated net capacity of the supply option.

b. The utility shall use the actual capacity cost of any capacity purchase identified in paragraph 35.9(6)*"a"* and shall provide the anticipated annual cost per net kW per year.

c. The utility shall use the installed cost of a combustion turbine as a proxy for the capacity cost of any power plant identified in paragraph 35.9(6)*"a."* For the first power plant option specified in paragraph 35.9(6)*"a,"* the following information shall be provided:

(1) The anticipated life.

(2) The anticipated total capital costs per net kW, including AFUDC if applicable.

(3) The anticipated revenue requirement of the capital costs per net kW per year.

(4) The anticipated revenue requirement of the annual fixed operations and maintenance costs, including property taxes, per net kW for each year of the planning horizon.

(5) The anticipated net present value of the revenue requirements per net kW.

(6) The anticipated revenue requirement per net kW per year calculated by utilization of an economic carrying charge.

(7) The after tax discount rate used to calculate the revenue requirement per net kW per year over the life of the supply option.

(8) Adjustment rates (for example, inflation or escalation rates) used to derive each future cost in paragraph 35.9(6)*"c."*

d. The capacity costs of the new supply options allocated to costing periods. The utility shall describe its method of allocating capacity costs to costing periods. The utility shall specify the hours, days, and weeks which constitute its costing periods. For each supply option identified in paragraph 35.9(6)*"a,"* the plan shall include:

(1) The anticipated annual cost per net kW per year of capacity purchases from subparagraph 35.9(6)*"b"*(6) allocated to each costing period if it is the highest cost supply option in that year.

(2) The anticipated total revenue requirement per net kW per year from subparagraph 35.9(6)*"c"*(6) allocated to each costing period if it is the highest cost supply option in that year.

35.9(7) *Avoided capacity and energy costs.* Avoided capacity costs shall be based on the future supply option with the highest value for each year in the 20-year planning horizon identified in subrule 35.9(6). Avoided energy costs shall be based on the marginal costs of the utility's generating units or purchases. The utility shall use the same costing periods identified in 35.9(6)*"b"* when calculating avoided capacity and energy costs. A party may submit, and the board shall consider, alternative avoided capacity and energy costs derived by an alternative method. A party submitting alternative avoided costs shall also submit an explanation of the alternative method.

DPC is deferred past costs including carrying charges which have not previously been approved for recovery, until the deferred past costs are fully recovered.

n is the length of the utility's plan in months.

r is the applicable monthly rate of return calculated as:

$$r = (1+R)^{1/12} - 1 \text{ or}$$
$$r = R + 12 \text{ if previously approved}$$

R is the pretax overall rate of return the board held just and reasonable in the utility's most recent general rate case involving the same type of utility service. If the board has not rendered a decision in an applicable rate case for a utility, the average of the weighted average cost rates for each of the capital structure components allowed in general rate cases within the preceding 24 months for Iowa utilities providing the same type of utility service will be used to determine the applicable pretax overall rate of return.

ECE is the estimated contemporaneous expenditures to be incurred during the 12-month recovery period.

A is the adjustment factor equal to overcollections or undercollections determined in the annual reconciliation and for adjustments ordered by the board in prudence reviews.

ASU is the annual sales units estimated for the 12-month recovery period.

35.12(4) *Filing requirements.* Each utility proposing automatic recovery for its energy efficiency costs shall provide the following information:

a. The filing shall restate the derivation of each ECR factor previously approved by the board.

b. The filing shall include new ECR factors based on allocation methods and customer classifications and groupings approved by the board in previous proceedings.

c. The filing shall include all worksheets and detailed supporting data used to determine new ECR factors. Information already on file with the board may be incorporated by reference in the filing.

d. The filing shall include a reconciliation comparing the amounts actually collected by the previous ECR factors to the amounts expended. Overcollections or undercollections shall be used to compute adjustment factors.

e. If in a prudence review, the board has determined that previously recovered energy efficiency costs were imprudently incurred, adjustment factors shall include reductions for these amounts.

35.12(5) *Tariff sheets.* Upon approval of the new ECR factors, the utility shall file separate tariff sheets for board approval to implement the ECR factors in its rates.

199—35.13(476) Prudence review. The board shall periodically conduct a contested case to evaluate the reasonableness and prudence of the utility's implementation of energy efficiency plans and budgets. The burden shall be on the utility to prove it has taken all reasonable actions to cost-effectively implement an energy efficiency plan as it was approved.

35.13(1) *Information to be filed.* The parties to the prudence review shall provide the following information:

a. The utility shall file prepared direct testimony and exhibits in support of its past implementation results including information regarding: implementation issues; monitoring and evaluation issues; program costs; program benefits; energy and demand savings; and participation rates.

b. The Consumer Advocate Division of the Department of Justice and other intervenors to the contested case shall be allowed at least seven weeks to file rebuttal testimony and exhibits to the utility's direct testimony.

35.13(2) *Disallowance of past costs.* If the board finds the utility did not take all reasonable and prudent actions to cost-effectively implement its energy efficiency programs, the board shall determine the amount in excess of those costs that would have been incurred under reasonable and prudent implementation. That amount shall be deducted from the next ECR factors calculated pursuant to 199 IAC 35.12(3) until satisfied.

These rules are intended to implement Iowa Code sections 476.2(7), 476.6(19-21) and 476.10A.

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◊Two ARCs

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CHAPTER 76
APPLICATION AND INVESTIGATION

[Ch 76, 1973 IDR, renumbered as Ch 911]
[Prior to 7/1/83, Social Services[770] Ch 76]
[Prior to 2/11/87, Human Services[498]]

441—76.1(249A) Application. An application for family medical assistance-related Medicaid programs shall be submitted on the Public Assistance Application, Form PA-2207-0 or Form PA-2230-0 (Spanish), the Health Services Application, Form 470-2927, the Application for Assistance, Part 1, Form 470-3112 or Form 470-3122 (Spanish), or the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, and the Supplement to the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3564. The Medically Needy Recertification/State Supplementary and Medicaid Review, Form 470-3118, shall be used instead of Form 470-3112 or 470-3122 (Spanish) for persons applying for assistance under the medically needy program as provided at 441—subrule 75.1(35) if an interview is not required.

An application for SSI-related Medicaid shall be submitted on the Application for Medical Assistance or State Supplementary Assistance, Form PA-1107-0, or Application for Assistance, Part 1, Form 470-3112 or Form 470-3122 (Spanish). The Medically Needy Recertification/State Supplementary and Medicaid Review, Form 470-3118, shall be used instead of Form 470-3112 or 470-3122 (Spanish) for persons applying for assistance under the medically needy program as provided at 441—subrule 75.1(35) if an interview is not required.

A person who is a recipient of supplemental security income (SSI) benefits shall not be required to complete a separate Medicaid application. If the county office does not have all information necessary to establish that an SSI recipient meets all Medicaid eligibility requirements, the SSI recipient may be required to complete Form 470-2304 or 470-0364, Medicaid Information Questionnaire for SSI Persons, and may be required to attend an interview to clarify information on this form.

An application for Medicaid for persons in foster care shall be submitted on Form 470-2779, Foster Care Medicaid Application.

Applicants whose cases are selected for the X-PERT system but whose eligibility cannot be determined through X-PERT may be requested to complete Form PA-2207-0, Form PA-2230-0 (Spanish), Form 470-2927, or Form PA-1107-0. For cases selected for the X-PERT system, and whose eligibility is determined through X-PERT, Part 2 of the application is the Summary of Facts, Form 470-3114, produced at the interview. The Summary of Facts, Form 470-3114, is attached to the Summary Signature Page, Form 470-3113 or Form 470-3123 (Spanish). Eligibility cannot be approved until the Summary Signature Page, Form 470-3113 or Form 470-3123 (Spanish), is signed by the persons as prescribed in subrule 76.1(2) and received by the local or area office within five working days of the request.

76.1(1) *Place of filing.* An application shall be filed in a local or area office of the department or directly with an income maintenance worker at a satellite office of the department or in any disproportionate share hospital, federally qualified health center or other facility in which outstationing activities are provided. The Health Services Application, Form 470-2927, may also be filed at the office of a qualified provider of presumptive Medicaid eligibility for pregnant women, at a WIC office, at a maternal health clinic, or at a well child clinic. The disproportionate share hospital, federally qualified health center or other facility will forward the application to the department office which is responsible for the completion of the eligibility determination. The Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, shall be filed with the third-party administrator as provided at 441—subrule 86.3(3). If it appears that the family is Medicaid-eligible, the third-party administrator shall forward the application to the county department office where the family resides for a determination of Medicaid eligibility. Those persons eligible for supplemental security income and those who would be eligible if living outside a medical institution may make application at the social security district office.

76.1(2) *Date and method of filing application.* An application is considered filed on the date an identifiable application, Form 470-0442, 470-0462, 470-0466 (Spanish), 470-2927, or Form 470-3112 or 470-3122 (Spanish), is received and date-stamped: (1) in any local or area office of the department, or (2) by an income maintenance worker in any satellite office of the department, or (3) by a designated worker in a disproportionate share hospital, federally qualified health center, or other facility in which outstationing activities are provided, or (4) by the third-party administrator who has contracted with the department to administer the healthy and well kids in Iowa (HAWK-I) program as provided at 441—Chapter 86. An identifiable application, Form 470-2927, which is filed to apply for FMAP or FMAP-related Medicaid at a WIC office, well child health clinic, maternal health clinic, or the office of a qualified provider for presumptive eligibility for pregnant women shall be considered filed on the date received and date-stamped in one of these offices. An application so received shall be forwarded within two working days to the department office responsible for completion of the eligibility determination. When a Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, is filed with the third-party administrator and subsequently referred to the department for a Medicaid eligibility determination, the date the application is received and date-stamped by the third-party administrator shall be the filing date. A faxed application is considered filed on the date the faxed application is received in one of the places described above, if the fax is received during normal business hours. If the fax is received after normal business hours, such as evenings, weekends or holidays, the faxed application shall be considered received on the next normal business day. Before the faxed application can be approved, the original application with the applicant's original signature must be received by the department.

An identifiable application is an application containing a legible name, address and signature. If an authorized representative signed the application on behalf of an applicant, the original signature of the applicant or the responsible person must be on the application before the application can be approved. For FMAP and FMAP-related Medicaid, the original signature of each and every parent or stepparent in the home must be on the application before the application can be approved.

76.1(3) *Applicant cooperation.* An applicant must cooperate with the department in the application process which may include providing information or verification, attending a required face-to-face interview or signing documents. Failure to cooperate with the application process shall serve as a basis for rejection of an application.

76.1(4) *Who may apply.* Each person wishing to do so shall have the opportunity to apply for assistance without delay. The applicant shall immediately be given an application form to complete. When the applicant requests that the forms be mailed, the local office shall send the necessary forms in the next outgoing mail.

76.1(5) *Application not required.* For family medical assistance-related programs, a new application is not required when an eligible person is added to an existing Medicaid eligible group or when a responsible relative becomes a member of a Medicaid eligible household. This person is considered to be included in the application that established the existing eligible group. However, in these instances the date of application to add a person is the date the change is reported. When it is reported that a person is anticipated to enter the home, the date of application to add the person shall be no earlier than the date of entry or the date of report, whichever is later.

a. In those instances where a person previously excluded from the eligible group for failure to cooperate in obtaining support or establishing paternity as described at 441—subrule 75.14(2) is to be added to the eligible group, the date of application to add the person is the date the person cooperates.

b. When adding a person who was previously excluded from the eligible group for failing to comply with rule 441—75.7(249A), the date of application to add the person is the date the social security number or proof of application for a social security number is provided.

c. In those instances where a person who has been excluded from the eligible group in accordance with the provisions of rule 441—75.59(249A) is being added to the eligible group, the date of application to add the person is the date the household requests that the person no longer be excluded.

441—76.8(249A) Investigation by quality control or the food stamp investigation section of the department of inspections and appeals. The recipient or applicant shall cooperate with the department when the recipient's case is selected by quality control or the food stamp investigation section of the department of inspections and appeals for verification of eligibility unless the investigation revolves solely around the circumstances of a person whose income and resources do not affect medical assistance eligibility. (See department of inspections and appeals rules 481—Chapter 72.) Failure to do so shall serve as a basis for cancellation of assistance unless the Medicaid eligibility is determined by the Social Security Administration. Once denied or canceled for failure to cooperate, the person may reapply but shall not be determined eligible until cooperation occurs.

441—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 considered to be overuse of services as defined in subrule 76.9(7) 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 24 months with longer restrictions determined on an individual basis.

76.9(2) Provider selection. The recipient may select the provider(s) from which services will be received. The selection shall be made by using Form MA-4068, Designation of Primary Providers. The designated providers will be identified on the Medical Assistance Eligibility Card (Lock-in), Form 470-3348. Only prescriptions written or approved by the designated primary physician(s) will be reimbursed. Other providers of the restricted service will be reimbursed only under circumstances specified in subrule 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. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 76.9(5).

c. The designated provider refers the recipient to another provider. Reimbursement shall be made for office visits only. Prescriptions will be reimbursed only if written or approved by the primary physician(s). Referred physicians may be added to the designation as explained in subrule 76.9(5).

76.9(4) When the recipient fails to choose a provider(s) within 30 days of the request, the division of medical services 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. Recipients may add additional providers to the original designation with approval of a health professional employed by the department for this purpose.

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 441—Chapter 7.

76.9(7) Overuse of services is defined as receipt of treatments, drugs, medical supplies or other Medicaid benefits from one or multiple providers of service in an amount, duration, or scope in excess of that which would reasonably be expected to result in a medical or health benefit to the patient.

a. Determination of overuse of service shall be based on utilization data generated by the Surveillance and Utilization Review Subsystem of the Medicaid Management Information System. The system employs an exception reporting technique to identify the recipients most likely to be program overutilizers by reporting cases in which the utilization exceeds the statistical average.

b. In addition to referrals from the Surveillance and Utilization Review Subsystem described in paragraph *"a,"* referrals for utilization review shall be made when utilization data generated by the Medicaid Management Information System reflects utilization of Medicaid recipient outpatient visits to physicians, family and pediatric nurse practitioners, federally qualified health centers, rural health centers, other clinics, and emergency rooms exceeds 24 visits in any 12-month period. This utilization review shall not apply to Medicaid recipients who are enrolled in the MediPASS program or a health maintenance organization, or who are children under 21 years of age or residents of a nursing facility. For the purposes of this paragraph, the term "physician" does not include a psychiatrist.

c. An investigation process of Medicaid recipients determined in paragraphs *"a"* or *"b"* to be subject to a review of overutilization shall be conducted to determine if actual overutilization exists by verifying that the information reported by the computer system is valid and is also unusual based on professional medical judgment. Medical judgments shall be made by physicians, pharmacists, nurses and other health professionals either employed by, under contract to, or consultants for the department. These medical judgments shall be made by the health professionals on the basis of the body of knowledge each has acquired which meets the standards necessary for licensure or certification under the Iowa licensing statutes for the particular health discipline.

441—76.10(249A) Applicant and recipient responsibilities.

76.10(1) An applicant or recipient eligible for Medicaid because of income and resource policies related to the supplemental security income (SSI) program, except for actual recipients of SSI, shall timely report any changes in the following circumstances to the department:

a. Income from all sources.
b. Resources.
c. Membership of the household.
d. Recovery from disability.
e. Mailing or living address.
f. Health insurance premiums or coverage.
g. Medicare premiums or coverage.
h. Receipt of social security number.
i. Gross income of the community spouse or dependent children, parents or siblings of the institutionalized or community spouse living with a community spouse when a diversion is made to the community spouse or family. (See definitions in rule 441—75.25(249A).)
j. Income and resources of parents and spouses when income and resources are used in determining Medicaid eligibility, client participation or spenddown.
k. Residence in a medical institution for other than respite care for more than 15 days for home and community-based recipients.

76.10(2) An applicant or recipient eligible for Medicaid because of the family medical assistance program (FMAP) income and resource policies shall report changes in accordance with subrule 76.2(5) and 441—paragraphs 75.52(5)*"a"* and *"b."* After assistance has been approved, changes occurring during the month are effective the first day of the next calendar month, provided the notification requirements at rule 441—76.4(249A) can be met.

76.10(3) A report shall be considered timely when received in the local office within ten days from the date the change is known to the recipient or authorized representative and within five days from the date the change is known to the applicant or authorized representative.

76.10(4) When a change is not timely reported, any incorrect program expenditures shall be subject to recovery from the recipient.

76.10(5) Effective date of change. When a request is made to add a new person to the eligible group, and that person meets the eligibility requirements, assistance shall be effective the first day of the month in which the request was made unless otherwise specified at rule 441—76.5(249A). After assistance has been approved, changes reported during the month shall be effective the first day of the next calendar month, unless:

a. Timely notice of adverse action is required as specified in 441—subrule 7.7(1).

b. The certification has expired for persons receiving assistance under the medically needy program in accordance with the provisions of 441—subrule 75.1(35).

c. The household is subject to the retrospective budgeting provisions in accordance with 441—subrule 75.52(5).

441—76.11(249A) Automatic redetermination. Whenever a Medicaid recipient no longer meets the eligibility requirements of the current coverage group, an automatic redetermination of eligibility for other Medicaid coverage groups shall be made. If the reason for ineligibility under the initial coverage group pertained to a condition of eligibility which applies to all coverage groups, such as failure to cooperate, no further redetermination shall be required. When the redetermination is completed, the recipient shall be notified of the decision in writing. The redetermination process shall be completed as follows:

76.11(1) *Information received by the tenth of the month.* If information that creates ineligibility under the current coverage group is received in the county office by the tenth of the month, the redetermination process shall be completed by the end of that month unless the provisions of subrule 76.11(3) apply. The effective date of cancellation for the current coverage group shall be the first day of the month following the month the information is received.

76.11(2) *Information received after the tenth of the month.* If information that creates ineligibility under the current coverage group is received in the county office after the tenth of the month, the redetermination process shall be completed by the end of the following month unless the provisions of subrule 76.11(3) apply. The effective date of cancellation for the current coverage group shall be the first day of the second month following the month the information is received.

76.11(3) *Change in federal law.* If a change in federal law affects the eligibility of large numbers of Medicaid recipients and the Secretary of Health and Human Services has extended the redetermination time limits, in accordance with 42 CFR Sec. 435.1003 as amended to January 13, 1997, the redetermination process shall be completed within the extended time limit and the effective date of cancellation for the current coverage group shall be no later than the first day of the month following the month in which the extended time limit expires.

76.11(4) *Referral for HAWK-I program.* When the only coverage group under which a child will qualify for Medicaid is the medically needy program with a spenddown as provided in 441—subrule 75.1(35), a referral to the Hawk-I program shall be made in accordance with 441—subrule 86.4(4) as part of the automatic redetermination process when it appears the child is otherwise eligible.

441—76.12(249A) Recovery.

76.12(1) *Definitions.*

"Administrative overpayment" means medical assistance incorrectly paid to or for the client because of continuing assistance during the appeal process or allowing a deduction for the Medicare part B premium in determining client participation while the department arranges to pay the Medicare premium directly.

"Agency error" means medical assistance incorrectly paid to or for the client because of action attributed to the department as the result of one or more of the following circumstances:

1. Misfiling or loss of forms or documents.
2. Errors in typing or copying.
3. Computer input errors.
4. Mathematical errors.
5. Failure to determine eligibility correctly or to certify assistance in the correct amount when all essential information was available to the county office.
6. Failure to make prompt revisions in medical payment following changes in policies requiring the changes as of a specific date.

"Client" means a current or former applicant or recipient of Medicaid.

"Client error" means medical assistance incorrectly paid to or for the client because the client or client's representative failed to disclose information, or gave false or misleading statements, oral or written, regarding the client's income, resources, or other eligibility and benefit factors. It also means assistance incorrectly paid to or for the client because of failure by the client or client's representative to timely report as defined in rule 441—76.10(249A).

"Department" means the department of human services.

76.12(2) *Amount subject to recovery.* The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client. The incorrect expenditures may result from client or agency error, or administrative overpayment.

76.12(3) *Notification.* All clients shall be promptly notified when it is determined that assistance was incorrectly expended. Notification shall include for whom assistance was paid; the time period during which assistance was incorrectly paid; the amount of assistance subject to recovery; and the reason for the incorrect expenditure.

76.12(4) *Source of recovery.* Recovery shall be made from the client or from parents of children under age 21 when the parents completed the application and had responsibility for reporting changes. Recovery may come from income, resources, the estate, income tax refunds, and lottery winnings of the client.

76.12(5) *Repayment.* The repayment of incorrectly expended Medicaid funds shall be made to the department.

However, repayment of funds incorrectly paid to a nursing facility, a Medicare-certified skilled nursing facility, a psychiatric medical institution for children, an intermediate care facility for the mentally retarded, or mental health institute enrolled as an inpatient psychiatric facility may be made by the client to the facility. The department shall then recover the funds from the facility through a vendor adjustment.

76.12(6) *Appeals.* The client shall have the right to appeal the amount of funds subject to recovery under the provisions of 441—Chapter 7.

76.12(7) *Estate recovery.* Pursuant to Iowa Code section 249A.5(2), medical assistance is subject to recovery from the estate of the recipient, a surviving spouse, or a surviving child as provided below.

a. The provision of medical assistance to a Medicaid recipient who is either 55 years of age or older or a resident of a nursing facility, intermediate care facility for the mentally retarded, or a mental health institute who cannot reasonably be expected to be discharged and return home creates a debt due the department from the recipient's estate for all medical assistance provided on the recipient's behalf on or after July 1, 1994, upon the recipient's death.

The department shall presume that a Medicaid recipient who is under 55 years of age and a resident of a nursing facility, intermediate care facility for the mentally retarded, or a mental health institute cannot reasonably be expected to be discharged and return home unless the recipient requests that the department determine whether the recipient can reasonably be expected to return home. If a written request is made, the department shall determine whether the recipient can reasonably be expected to return home.

These rules are intended to implement Iowa Code sections 249.3, 249.4, 249A.4 and 249A.5.

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(5) Reserve bed day payment is not available until the child has been physically admitted to the psychiatric medical institution.

(6) The psychiatric medical institution shall notify the department social worker within 24 hours after the child is out of the facility for running away or other unplanned reasons.

85.25(3) *Day treatment rates.* Outpatient day treatment services are paid on a fixed fee basis.

441—85.26(249A) Outpatient day treatment for persons aged 20 or under. Payment to a psychiatric medical institution for children will be approved for day treatment services for persons aged 20 or under if the psychiatric medical institution for children is certified by the department of inspections and appeals for day treatment services and the services are provided on the licensed premises of the psychiatric medical institution for children.

EXCEPTION: Field trips away from the premises are a covered service when the trip is therapeutic and integrated into the day treatment program's description and milieu plan. All conditions for the day treatment program for persons aged 20 or under as outlined in 441—subrule 78.16(7) for community mental health centers shall apply to psychiatric medical institutions for children.

These rules are intended to implement Iowa Code section 249A.4.

441—85.27 to **85.40** Reserved.

DIVISION III
NURSING FACILITIES FOR PERSONS WITH MENTAL ILLNESS

441—85.41(249A) Conditions of participation. A nursing facility for persons with mental illness shall be licensed pursuant to department of inspections and appeals rules 481—Chapter 65, or, if the facility is a distinct part of a hospital, pursuant to department of inspections and appeals rule 481—51.33(135B). A distinct part of a general hospital may be considered a psychiatric institution. In addition, the facility shall be certified to participate in the Iowa Medicaid program as a nursing facility pursuant to 441—Chapter 81 and shall be 16 beds or more. The facility shall also meet the criteria set forth in subrule 85.1(1).

441—85.42(249A) Out-of-state placement. Placement in out-of-state nursing facilities for persons with mental illness is not payable.

441—85.43(249A) Eligibility of persons aged 65 and over. To be eligible for payment for the cost of care provided by nursing facilities for persons with mental illness, persons must be aged 65 or over and be eligible under one of the coverage groups listed in rule 441—75.1(249A), except for medically needy.

441—85.44(249A) Client participation. The resident's client participation and medical payments from a third party shall be paid toward the total cost of care on a monthly basis. The state will pay the balance of the cost of care for the month. The facility shall make arrangements directly with the resident for payment of client participation. Client participation is determined according to rule 441—75.16(249A).

441—85.45(249A) Responsibilities of nursing facility.

85.45(1) *Medical record requirements.* The facility shall obtain a PRO determination that the person requires psychiatric care when a person applying or eligible for Medicaid enters the facility, returns from an acute care hospital stay longer than 10 days, or enters the facility after 30 consecutive days of visitation. Periodic PRO determinations of the need for continuing care are also required.

85.45(2) *Fiscal records.*

a. A Case Activity Report, Form AA-4166-0, shall be submitted to the department whenever a Medicaid applicant or recipient enters the facility, changes level of care, is hospitalized, leaves for visitation, or is discharged from the facility.

b. The facility shall bill after each calendar month for the previous month's services.

441—85.46(249A) Policies governing reimbursement. Cost reporting, reserve bed day payment, and reimbursement shall be the same for nursing facilities for persons with mental illness as for nursing facilities as set forth in 441—Chapter 81.

These rules are intended to implement Iowa Code section 249A.4.

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CHAPTER 86
HEALTHY AND WELL KIDS IN IOWA (HAWK-I) PROGRAM

PREAMBLE

These rules define and structure the department of human services healthy and well kids in Iowa (HAWK-I) program. The purpose of this program is to provide transitional health care coverage to children ineligible for Title XIX (Medicaid) assistance or other health insurance. The program is implemented and administered in compliance with Title XXI of the federal Social Security Act. The rules establish requirements for the third-party administrator responsible for the program administration and for the participating health plans which will be delivering services to the enrollees.

441—86.1(77GA,ch1196) Definitions.

"Administrative contractor" shall mean the person or entity with whom the department contracts to administer the healthy and well kids in Iowa (HAWK-I) program.

"Benchmark benefit package" shall mean any of the following:

1. The standard Blue Cross Blue Shield preferred provider option service benefit plan, described in and offered under 5 U.S.C. Section 8903(1).
2. A health benefits coverage plan that is offered and generally available to state employees in this state.
3. The plan of a health maintenance organization, as defined in 42 U.S.C. Section 300e, with the largest insured commercial, nonmedical assistance enrollment of covered lives in the state.

"Capitation rate" shall mean the fee the department pays monthly to a participating health plan for each enrollee for the provision of covered medical services whether or not the enrollee received services during the month for which the fee is intended.

"Contract" shall mean the contract between the department and the person or entity selected as the third-party administrator or the contract between the department and the participating health plan for the provision of medical services to HAWK-I enrollees for whom the participating health plans assume risk.

"Cost sharing" shall mean the payment of a premium or copayment as provided for by Title XXI of the federal Social Security Act and 1998 Iowa Acts, chapter 1196, section 11.

"Covered services" shall mean all or a part of those medical and health services set forth in rule 441—86.14(77GA, ch1196).

"Department" shall mean the Iowa department of human services.

"Director" shall mean the director of the Iowa department of human services.

"Eligible child" shall mean an individual who meets the criteria for participation in the HAWK-I program as set forth in rule 441—86.2(77GA,ch1196).

"Emergency medical condition" shall mean a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in one of the following:

1. Placing the health of the person or, with respect to a pregnant woman, the health of the woman and her unborn child, in serious jeopardy,
2. Serious impairment to bodily functions, or
3. Serious dysfunction of any bodily organ or part.

"Emergency services" shall mean, with respect to an individual enrolled with a plan, covered inpatient and outpatient services which are furnished by a provider qualified to furnish these services and which are needed to evaluate and stabilize an emergency medical condition.

"Enrollee" shall mean a HAWK-I recipient who has been enrolled with a participating health plan.

"Federal poverty level" shall mean the poverty income guidelines revised annually and published in the Federal Register by the United States Department of Health and Human Services.

"Good cause" shall mean the family has demonstrated that one or more of the following conditions exist:

1. There was a serious illness or death of the enrollee or a member of the enrollee's family.
2. There was a family emergency or household disaster, such as a fire, flood, or tornado.
3. There was a reason beyond the enrollee's control.
4. There was a failure to receive the third-party administrator's request for a reason not attributable to the enrollee. Lack of a forwarding address is attributable to the enrollee.

"HAWK-I board" or *"board"* shall mean the entity that adopts rules, establishes policy, and directs the department regarding the HAWK-I program.

"HAWK-I program" or *"program"* shall mean the healthy and well kids in Iowa program implemented in this chapter to provide health care coverage to eligible children.

"Health insurance coverage" shall mean health insurance coverage as defined in 42 U.S.C. Section 300gg(c).

"Institution for mental diseases" shall mean a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care and related services as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

"Nonmedical public institution" shall mean an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control as defined in 42 CFR Section 435.1009 as amended November 10, 1994.

"Participating health plan" shall mean any entity licensed by the division of insurance of the department of commerce to provide health insurance in Iowa or an organized delivery system licensed by the director of public health that has contracted with the department to provide health insurance coverage to eligible children under this chapter.

"Physician" shall be defined as provided in Iowa Code subsection 135.1(4).

"Provider" shall mean an individual, firm, corporation, association, or institution that is providing or has been approved to provide medical care or services to an enrollee pursuant to the HAWK-I program.

"Regions" shall mean the six regions of the state as follows:

- Region 1: Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, Sac, Monona, Crawford, and Carroll.
- Region 2: Kossuth, Winnebago, Worth, Mitchell, Howard, Hancock, Cerro Gordo, Floyd, Pocahontas, Humboldt, Wright, Franklin, Calhoun, Webster, Hamilton, Hardin, Greene, Boone, Story, Marshall, and Tama.
- Region 3: Winneshiek, Allamakee, Chickasaw, Fayette, Clayton, Butler, Bremer, Grundy, Black Hawk, Buchanan, Delaware, Dubuque, Jones, Jackson, Cedar, Clinton, and Scott.

- Region 4: Harrison, Shelby, Audubon, Pottawattamie, Cass, Mills, Montgomery, Fremont, and Page.
- Region 5: Guthrie, Dallas, Polk, Jasper, Adair, Madison, Warren, Marion, Adams, Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and Wayne.
- Region 6: Benton, Linn, Poweshiek, Iowa, Johnson, Muscatine, Mahaska, Keokuk, Washington, Louisa, Monroe, Wapello, Jefferson, Henry, Des Moines, Appanoose, Davis, Van Buren, and Lee.

"Third-party administrator" shall mean the person or entity with which the department contracts to provide administrative services for the HAWK-I program.

441—86.2(77GA,ch1196) Eligibility factors. A child must meet the following eligibility factors to participate in the HAWK-I program.

86.2(1) *Age.* The child shall be under 19 years of age. Eligibility for the program ends the first day of the month following the month of the child's nineteenth birthday.

86.2(2) *Income.* Countable income shall not exceed 185 percent of the federal poverty level for a family of the same size when determining initial and ongoing eligibility for the program.

a. Countable income. When determining initial and ongoing eligibility for the HAWK-I program, all earned and unearned income, unless specifically exempted, shall be countable.

(1) Earned income. The earned income of all parents, spouses, and children under the age of 19 who are not students shall be countable. Income shall be countable earned income when an individual produces it as a result of the performance of services. Earned income is income in the form of a salary, wages, tips, bonuses, and commissions earned as an employee, or net profit from self-employment.

1. Earned income from employment. Earned income from employment means total gross income.

2. Earned income from self-employment. Earned income from self-employment means the net profit determined by comparing gross income with the allowable costs of producing the income. The net profit from self-employment income shall be determined according to the provisions of 441—paragraph 75.57(2)*"f."* A person is considered self-employed when the person:

- Is not required to report to the office regularly except for specific purposes such as sales training meetings, administrative meetings, or evaluation sessions; or
- Establishes the person's own working hours, territory, and methods of work; or
- Files quarterly reports of earnings, withholding payments, and FICA payments to the Internal Revenue Service.

(2) Unearned income. The unearned income of all parents, spouses, and children under the age of 19 shall be counted. Unearned income is any income in cash that is not gained by labor or service. The available unearned income shall be the amount remaining after the withholding of taxes (Federal Insurance Contribution Act, state and federal income taxes). Examples of unearned income include, but are not limited to:

1. Social security benefits. Social security income is the amount of the entitlement before withholding of a Medicare premium.
2. Child support and alimony payments received for a member of the family.
3. Unemployment compensation.
4. Veterans benefits.

(3) Recurring lump sum income. Earned and unearned lump sum income that is received on a regular basis shall be counted and prorated over the time it is intended to cover. These payments may include, but are not limited to:

1. Annual bonuses.
2. Lottery winnings that are paid out annually.

b. Exempt income. The following shall not be counted toward the income limit when establishing eligibility for the HAWK-I program.

(1) Nonrecurring lump sum income. Nonrecurring lump sum income is income that is not expected to be received more than once. These payments may include, but are not limited to:

1. An inheritance.
2. A one-time bonus.
3. Lump sum lottery winnings.
4. Other one-time payments.

(2) Food reserves from home-produced garden products, orchards, domestic animals, and the like, when used by the household for its own consumption.

(3) The value of the coupon allotment in the Food Stamp Program.

(4) The value of the United States Department of Agriculture donated foods (surplus commodities).

(5) The value of supplemental food assistance received under the Child Nutrition Act and the special food service program for children under the National School Lunch Act.

(6) Any benefits received under Title III-C, Nutrition Program for the Elderly, of the Older Americans Act.

(7) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981.

(8) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Federal-Aid Highway Act of 1968.

(9) Interest and dividend income.

(10) Any judgment funds that have been or will be distributed per capita or held in trust for members of any Indian tribe.

(11) Payments to volunteers participating in the Volunteers in Service to America (VISTA) program.

(12) Payments for supporting services or reimbursement of out-of-pocket expenses received by volunteers in any of the programs established under Titles II and III of the Domestic Volunteer Services Act.

(13) Tax-exempt portions of payments made pursuant to the Alaskan Native Claims Settlement Act.

(14) Experimental housing allowance program payments.

(15) The income of a Supplemental Security Income (SSI) recipient.

(16) Income of an ineligible child if the family chooses not to include the child in the eligibility determination in accordance with the provisions of paragraph 86.2(3)"*c.*"

(17) Unearned income in kind.

(18) Family support subsidy program payments.

(19) All earned and unearned educational funds of an undergraduate or graduate student or a person in training. However, any additional amount of educational funds received for the person's dependents that are in the eligible group shall be considered as nonexempt income.

(20) Bona fide loans.

(21) Payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

(22) Payment for major disaster and emergency assistance provided under the Disaster Relief Act of 1974 as amended by Public Law 100-707, the Disaster Relief and Emergency Assistance Amendments of 1988.

(23) Payments made to certain United States citizens of Japanese ancestry and resident Japanese aliens under Section 105 of Public Law 100-383, and payments made to certain eligible Aleuts under Section 206 of Public Law 100-383 entitled Wartime Relocation of Civilians.

(24) Payments received from the Radiation Exposure Compensation Act.

(25) Reimbursements from a third party or from an employer for job-related expenses.

(26) Payments received for providing foster care when the family is operating a licensed foster home.

(27) Any payments received as a result of an urban renewal or low-cost housing project from any governmental agency.

(28) Retroactive corrective payments.

(29) The training allowance issued by the division of vocational rehabilitation, department of education.

(30) Payments from the PROMISE JOBS program.

(31) The training allowance issued by the department for the blind.

(32) Payments from passengers in a car pool.

(33) Compensation in lieu of wages received by a child under the Job Training Partnership Act of 1982.

(34) Any amount for training expenses included in a payment issued under the Job Training Partnership Act of 1982.

(35) Earnings of a child aged 19 or younger who is a student.

(36) Incentive payments received from participation in the adolescent pregnancy prevention programs.

(37) Payments received from the comprehensive child development program, funded by the Administration for Children, Youth, and Families, provided the payments are considered complementary assistance by federal regulations.

(38) Incentive allowance payments received from the work force investment project, provided the payments are considered complementary assistance by federal regulation.

(39) Honorarium income and all moneys paid to an eligible family in connection with the welfare reform longitudinal study.

(40) Family investment program (FIP) benefits.

(41) Moneys received through pilot self-sufficiency grants or diversion programs.

c. Verification of income. Earnings from the past 30 days may be used to verify earned income if it is representative of the income expected in future months. Pay stubs or employers' statements are acceptable forms of verification of earned income. Unearned income shall be verified through data matches when possible, award letters, warrant copies, or other acceptable means of verification. Self-employment income shall be verified using business records or income tax returns from the previous year if they are representative of anticipated earnings.

d. Changes in income. Once initial eligibility is established, changes in income during the 12-month enrollment period shall not affect the child's eligibility to participate in the HAWK-I program. However, if income has decreased, the family may request a review of their income to establish whether they are required to continue paying a premium in accordance with rule 441—86.8(77GA,ch1196).

86.2(3) *Family size.* For purposes of establishing initial and ongoing eligibility under the HAWK-I program, the family size shall consist of all persons living together who are children and who are parents of those children as defined below.

EXCEPTION: Persons who are receiving Supplemental Security Income (SSI) under Title XVI of the Social Security Act or who are voluntarily excluded in accordance with the provisions of paragraph *"c"* below are not considered in determining family size.

a. Children. A child under the age of 19 and any siblings of whole or half blood or adoptive shall be considered together unless the child is emancipated due to marriage, in which case, the emancipated child is not included in the family size unless the marriage has been annulled. Emancipated children, their spouses, and children who live together shall be considered as a separate family when establishing eligibility for the HAWK-I program.

b. Parents. Any parent living with the child under the age of 19 shall be included in the family size. This includes the biological parent, stepparent, or adoptive parent of the child and is not dependent upon whether the parents are married to each other.

c. Persons who may be excluded when determining family size. If a child is ineligible for coverage under the HAWK-I program because the child has insurance or is on Medicaid, the family may choose not to count the child in the family size if the child also has income. However, this rule shall not apply when the child is receiving Supplemental Security Income (SSI) benefits.

d. Temporary absence from the home. The following policies shall be applied to an otherwise eligible child under the age of 19 who is temporarily absent from the home.

(1) When a child is absent from the home to secure education or training (e.g., the child is attending college), the child shall be included when establishing the size of the family at home.

(2) When a child is absent from the home to secure medical care, the child shall be included when establishing the size of the family at home when the reason for the absence is expected to last less than 12 months.

(3) When the child is absent from the home because the child is an inmate in a nonmedical public institution (e.g., a penal institution) in accordance with the provisions of subrule 86.2(9), the child shall be included when establishing the size of the family at home if the absence is expected to be less than three months.

(4) When a child is absent from the home because the child is in foster care, the child shall not be included when establishing the size of the family at home.

(5) When a child is absent from the home for vacation or visitation of an absent parent, for example, the child shall be included in establishing the size of the family at home if the absence does not exceed three months.

86.2(4) *Uninsured status.* The child must be uninsured. A child who is currently enrolled in an individual or group health plan is not eligible to participate in the HAWK-I program. However, a child who is enrolled in a plan that provides coverage only for a specific disease or service (e.g., a vision- or dental-only policy or a cancer policy) shall not be considered insured for purposes of the HAWK-I program.

a. A child who has been enrolled in an employer-sponsored health plan in the six months prior to the month of application but who no longer is enrolled in an employer-sponsored health plan is not eligible to participate in the HAWK-I program for six months from the last date of coverage unless the coverage ended for one of the following reasons:

(1) Employment was lost due to factors other than voluntary termination.

(2) Coverage was lost due to the death of a parent.

(3) There was a change in employment to a new employer that does not provide an option for dependent coverage.

(4) The child moved to an area of the state where the plan does not have a provider network established.

(5) The employer discontinued health benefits to all employees.

(6) The coverage period allowed by COBRA expired.

(7) The parent became self-employed.

(8) Health benefits were terminated because of a long-term disability.

(9) Dependent coverage was terminated due to an extreme economic hardship on the part of either the employee or the employer.

(10) There was a substantial reduction in either lifetime medical benefits or benefit category available to an employee and dependents under an employer's health care plan.

(11) Child health insurance program (CHIP) coverage in another state was terminated due to the family's move to Iowa.

b. American Indian and Alaska Native. American Indian and Alaska Native children are eligible for the HAWK-I program on the same basis as other children in the state, regardless of whether or not they may be eligible for or served by Indian Health Services-funded care.

86.2(5) *Ineligibility for Medicaid.* The child shall not be receiving Medicaid or eligible to receive Medicaid if application were made except when the child would be required to meet a spenddown under the medically needy program in accordance with the provisions of 441—subrule 75.1(35). Additionally, a child who would be eligible for Medicaid except for the parent's failure or refusal to cooperate in establishing initial or ongoing eligibility shall not be eligible for coverage under the HAWK-I program.

86.2(6) *Iowa residency.* The child shall be a resident of the state of Iowa. A resident of Iowa is a person:

a. Who is living in Iowa voluntarily with the intention of making that person's home in Iowa and not for a temporary purpose; or

b. Who, at the time of application, is not receiving assistance from another state and entered Iowa with a job commitment or to seek employment or who is living with parents or guardians who entered Iowa with a job commitment or to seek employment.

86.2(7) *Citizenship and alien status.* The child shall be a citizen or lawfully admitted alien. The criteria established under Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Balanced Budget Act of 1997 shall be followed when determining whether a lawfully admitted alien child is eligible to participate in the HAWK-I program. The citizenship or alien status of the parents or other responsible person shall not be considered when determining the eligibility of the child to participate in the program.

86.2(8) *Dependents of state of Iowa employees.* The child shall not be eligible for the HAWK-I program if the child is eligible for health insurance coverage as a dependent of a state of Iowa employee.

86.2(9) *Inmates of nonmedical public institutions.* The child shall not be an inmate of a nonmedical public institution as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

86.2(10) *Inmates of institutions for mental disease.* At the time of application or annual review of eligibility, the child shall not be an inmate of an institution for mental disease as defined at 42 CFR Section 435.1009 as amended November 10, 1994.

86.2(11) *Preexisting medical conditions.* The child shall not be denied eligibility based on the presence of a preexisting medical condition.

86.2(12) *Furnishing a social security number.* The child must furnish a social security number or, if one has not been issued or is not known, proof of application must be provided.

441—86.3(77GA,ch1196) Application process.

86.3(1) *Who may apply.* Each person wishing to do so shall have the opportunity to apply without delay. When the request is made in person, the requester shall immediately be given an application form. When a request is made that the application form be mailed, it shall be sent in the next outgoing mail.

a. Child lives with parents. When the child lives with the child's parents, including stepparents and adoptive parents, the parent shall file the application on behalf of the child unless the parent is unable to do so.

If the parent is unable to act on the child's behalf because the parent is incompetent or physically disabled, another person may file the application on behalf of the child. The responsible person shall be a family member, friend or other person who has knowledge of the family's financial affairs and circumstances and a personal interest in the child's welfare or a legal representative such as a conservator, guardian, executor or someone with power of attorney. The responsible person shall sign the application form and assume the responsibilities of the incompetent or disabled parent in regard to the application process and ongoing eligibility determinations.

b. Child lives with someone other than a parent. When the child lives with someone other than a parent (e.g., another relative, friend, guardian), the person who has assumed responsibility for the care of the child may apply on the child's behalf. This person shall sign the application form and assume responsibility for providing all information necessary to establish initial and ongoing eligibility for the child.

c. Child lives independently or is married. When a child under the age of 19 lives in an independent living situation or is married, the child may apply on the child's own behalf, in which case, the child shall be responsible for providing all information necessary to establish initial and ongoing eligibility. If the child is married, both the child and the spouse shall sign the application form.

86.3(2) *Application form.* An application for the HAWK-I program shall be submitted on Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application, unless the family applies for the Medicaid program first.

When an application has been filed for the Medicaid program in accordance with the provisions of rule 441—76.1(249A) and Medicaid eligibility does not exist in accordance with the provisions of rule 441—75.1(249A), or the family must meet a spenddown in accordance with the provisions of 441—subrule 75.1(35) before the child can attain eligibility, the Medicaid application shall be used to establish eligibility for the HAWK-I program in lieu of the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526. Applications may be obtained by telephoning the toll-free telephone number of the third-party administrator.

86.3(3) *Place of filing.* An application for the HAWK-I program shall be filed with the third-party administrator responsible for making the eligibility determination. Any local or area office of the department of human services, disproportionate share hospital, federally qualified health center, other facilities in which outstationing activities are provided, school nurse, Head Start, maternal and child health center, WIC office, or other entity may accept the application. However, all applications shall be forwarded to the third-party administrator.

86.3(4) *Date and method of filing.* The application is considered filed on the date an identifiable application is received by the third-party administrator unless the family has applied for Medicaid first and a referral is made to the third-party administrator by the county office of the department, in which case, the date the Medicaid application was originally filed with the department shall be the filing date. An identifiable application is an application containing a legible name, address, and signature.

86.3(5) *Right to withdraw application.* After an application has been filed, the applicant may withdraw the application at any time prior to the eligibility determination. Requests for voluntary withdrawal of the application shall be documented, and the applicant shall be sent a notice of decision confirming the request.

86.3(6) *Application not required.* An application shall not be required when a child becomes ineligible for Medicaid and the county office of the department makes a referral to the HAWK-I program, in which case, Form 470-3563, HAWK-I Referral, shall be accepted in lieu of an application. The original Medicaid application or the last review form, whichever is more current, shall suffice to meet the signature requirements.

86.3(7) *Information and verification procedure.* The decision with respect to eligibility shall be based primarily on information furnished by the applicant or enrollee. The third-party administrator shall notify the applicant or enrollee in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or enrollee personally or by mail or facsimile. Failure of the applicant or enrollee to supply the information or verification or refusal by the applicant or enrollee to authorize the third-party administrator to secure the information shall serve as a basis for rejection of the application or cancellation of coverage. Five working days shall be allowed for the applicant or enrollee to supply the information or verification requested by the third-party administrator. The third-party administrator may extend the deadline for a reasonable period of time when the applicant or enrollee is making every effort but is unable to secure the required information or verification from a third party.

86.3(8) *Time limit for decision.* The third-party administrator shall make a decision regarding the applicant's eligibility to participate in the HAWK-I program within ten working days from the date of receiving the completed application and all necessary information and verification unless the application cannot be processed within the period for a reason that is beyond the control of the third-party administrator.

EXCEPTION: When the application is referred to the county office of the department for a Medicaid eligibility determination and the application is denied, the third-party administrator shall determine HAWK-I eligibility no later than ten working days from the date of the notice of Medicaid denial.

86.3(9) *Applicant cooperation.* An applicant must cooperate with the third-party administrator in the application process, which may include providing verification or signing documents. Failure to cooperate with the application process shall serve as basis for a denial of the application.

86.3(10) *Waiting lists.* When funds appropriated for this purpose are obligated, pending applications for HAWK-I coverage shall be denied by the third-party administrator. A notice of decision shall be mailed by the third-party administrator. The notice shall state that the applicant meets eligibility requirements but no funds are available and that the applicant will be placed on a waiting list, or that the person does not meet eligibility requirements.

a. Applicants shall be entered on the waiting list on the basis of the date a completed Form 470-3564 is date-stamped by the third-party administrator. In the event that more than one application is received on the same day, applicants shall be entered on the waiting list on the basis of the day of the month of the oldest child's birthday, the lowest number being first on the list. Any subsequent ties shall be decided by the month of birth of the oldest child, January being month one and the lowest number.

b. If funds become available, applicants shall be selected from the waiting list based on the order of the waiting list and notified by the third-party administrator.

c. The third-party administrator shall establish that the applicant continues to be eligible for HAWK-I coverage.

d. After eligibility is reestablished, the applicant shall have 15 working days to enroll in the program. If the applicant does not enroll in the program within 15 working days, the applicant's name shall be deleted from the waiting list and the third-party administrator shall contact the next applicant on the waiting list.

86.3(11) *Falsification of information.* A person is guilty of falsification of information if that person, with the intent to gain HAWK-I coverage for which that person is not eligible, knowingly makes or causes to be made a false statement or representation or knowingly fails to report to the third-party administrator or the department any change in circumstances affecting that person's eligibility for HAWK-I coverage in accordance with rule 441—86.2(77GA,ch1196) and rule 441—86.10 (77GA,ch1196).

In cases of founded falsification of information, the department may proceed with disenrollment in accordance with rule 441—86.7(77GA,ch1196) and require repayment for the amount that was paid to a health plan by the department and any amount paid out by the plan while the person was ineligible.

86.3(12) *Applications pended due to unavailability of a plan.* When there is no participating health plan in the applicant's county of residence, the application shall be held until a plan is available. The application shall be processed when a plan becomes available and coverage shall be effective the first day of the month the plan becomes available.

441—86.4(77GA,ch1196) Coordination with Medicaid.

86.4(1) *HAWK-I applicant appears eligible for Medicaid.* At the time of initial application, if it appears the child may be eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), a referral shall be made by the third-party administrator to the county department office for a determination of Medicaid eligibility as follows:

a. The original Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, and copies of any accompanying information and verification shall be forwarded to the county department office within 24 hours, or the next working day, whichever is sooner. The third-party administrator shall maintain a copy of all documentation sent to the department and a log to track the disposition of all referrals.

b. The third-party administrator shall notify the family that the referral has been made. The notice of the referral to the family shall be accompanied by a Medicaid Supplement to the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3564, and the third-party administrator shall return to the family any original verification and information that was submitted with the application.

c. The referral shall be considered an application for Medicaid in accordance with the provisions of rule 441—76.1(249A). The time limit for processing the referred application begins with the date the Healthy and Well Kids in Iowa (HAWK-I) Application, Form 470-3526, is date-stamped as being received by the third-party administrator.

86.4(2) *HAWK-I enrollee appears eligible for Medicaid.* At the time of the annual review, if it appears the child may be eligible for Medicaid in accordance with the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), a referral shall be made to the county department office for a determination of Medicaid eligibility as stated in subrule 86.4(1) above. However, the child shall remain eligible for the HAWK-I program pending the Medicaid eligibility determination unless the 12-month certification period expires first.

86.4(3) *Medicaid applicant not eligible.* If a child is not eligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), the department shall make a referral to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

a. A copy of the original application, copies of any accompanying information and verification, and a copy of the notice of decision shall be forwarded to the third-party administrator within 24 hours of the decision to deny Medicaid eligibility or the next working day, whichever is sooner.

b. The third-party administrator shall date-stamp the referral, notify the family of the referral, and proceed with an eligibility determination under the HAWK-I program.

c. The time frame for processing the application begins with the day on which the referred application is date-stamped as having been received by the third-party administrator.

d. If it is apparent that the child will not be eligible for the HAWK-I program (e.g., the child is the dependent of a state of Iowa employee), the referral shall not be made.

86.4(4) *Medicaid recipient becomes ineligible.* If a child becomes ineligible for Medicaid under the provisions of rule 441—75.1(249A), with the exception of meeting a spenddown under the medically needy program at 441—subrule 75.1(35), a referral shall be made to the third-party administrator for an eligibility determination under the HAWK-I program as follows:

a. The department shall complete a Referral to HAWK-I, Form 470-3563, and send it to the third-party administrator within 24 hours of the determination that the child is no longer eligible for Medicaid or that the child must meet a spenddown under the medically needy program.

b. The third-party administrator shall date-stamp the referral, notify the family of the referral, and proceed with an eligibility determination under the HAWK-I program. Form 470-3563, Referral to HAWK-I, shall be used as an application for the HAWK-I program. If needed, copies of supporting documentation and signatures shall be obtained from the case record at the county office of the department.

c. If it is apparent the child will not be eligible for the HAWK-I program (e.g., the child is the dependent of a state of Iowa employee), the referral shall not be made.

441—86.5(77GA,ch1196) Effective date of coverage. Coverage for children who are determined eligible for the HAWK-I program shall be effective the first day of the month following the month in which the application is filed, regardless of the day of the month the application is filed, or when a plan becomes available in the applicant's county of residence.

441—86.6(77GA,ch1196) Selection of a plan. At the time of initial application, if there is more than one participating plan available in the child's county of residence, the applicant shall select the plan in which the applicant wishes to enroll as part of the eligibility process. The enrollee may change plans only at the time of the annual review unless the provisions of subrule 86.7(1) apply. The applicant shall designate the plan choice in writing by completing Form 470-3574, Selection of Plan.

86.6(1) *Coverage in another county's plan.* If a child traditionally travels to another county to receive medical care, the applicant may choose to participate in the plan available in the county in which the child receives medical care.

86.6(2) *Period of enrollment.* Once enrolled in a plan, the child shall remain enrolled in the selected plan for a period of 12 months unless the child is disenrolled in accordance with the provisions of rule 441—86.7(77GA,ch1196). If a child is disenrolled from the plan and subsequently reapplies prior to the end of the original 12-month enrollment period, the child shall be enrolled in the plan from which the child was originally disenrolled unless the provisions of subrule 86.7(1) apply.

86.6(3) *Failure to select a plan.* When more than one plan is available, if the applicant fails to select a plan within ten working days of the written request to make a selection, the application shall be denied unless good cause exists.

441—86.7(77GA,ch1196) Disenrollment. The child shall be disenrolled from the selected plan prior to the end of the 12-month enrollment period for any of the following:

86.7(1) *Child moves from the service area.* The child may be disenrolled from the plan when the child moves to an area of the state in which the plan does not have a provider network established. If the child is disenrolled, the child shall be enrolled in a participating plan in the new location. The period of enrollment shall be the number of months remaining in the original certification period.

86.7(2) *Age.* The child shall be disenrolled from the plan and canceled from the HAWK-I program as of the first day of the month following the month in which the child attained the age of 19.

86.7(3) *Nonpayment of premiums.* The child shall be disenrolled from the plan and canceled from the program as of the first day of the month in which premiums are not paid in accordance with the provisions of subrules 86.8(3) and 86.8(5).

86.7(4) *Iowa residence abandoned.* The child shall be disenrolled from the plan and canceled from the program as of the first day of the month following the month in which the child relocated to another state. A child shall not be disenrolled when the child is temporarily absent from the state in accordance with the provisions of subrule 86.2(6).

86.7(5) *Eligible for Medicaid.* The child shall be disenrolled from the plan and canceled from the program as of the first day of the month following the month in which Medicaid eligibility is established.

86.7(6) *Enrolled in other health insurance coverage.* The child shall be disenrolled from the plan as of the first day of the month following the month in which the child attained other health insurance coverage.

86.7(7) *Admission to a nonmedical public institution.* The child shall be disenrolled from the plan and canceled from the program as of the first day of the month following the month in which the child enters a nonmedical public institution unless the temporary absence provisions of paragraph 86.2(3)*"d"* apply.

86.7(8) *Admission to an institution for mental disease.* The child shall be disenrolled from the plan and canceled from the program if the child is a patient in an institution for mental disease at the time of annual review.

86.7(9) *Employment with the state of Iowa.* The child shall be disenrolled from the plan and canceled from the HAWK-I program as of the first day of the month in which the child's parent became eligible to participate in a health plan available to state of Iowa employees.

441—86.8(77GA,ch1196) Premiums and copayments.

86.8(1) *Income limit.* No premium shall be assessed when countable income is less than 150 percent of the federal poverty level for a family of the same size. When countable income is equal to or greater than 150 percent of the federal poverty level for a family of the same size, participation in the program is contingent upon the payment of a monthly premium.

86.8(2) *Premium amount.* The premium amount shall be $10 per month per child up to a maximum of $20 per month per family.

86.8(3) *Due date.* When the third-party administrator notifies the applicant that the applicant is eligible to participate in the program, the applicant shall pay any premiums due within ten working days for the initial month of coverage. When the premium is received, the third-party administrator shall notify the plan of the enrollment. After the initial month of coverage, premiums shall be received no later than the last day of the month prior to the month of coverage. Failure to pay the premium by the last day of the month before the month of coverage shall result in disenrollment from the plan. At the request of the family, premiums may be paid in advance (e.g., on a quarterly or semiannual basis) rather than a monthly basis.

86.8(4) *Reinstatement.* A child may be reinstated once in a 12-month period when the family fails to pay the premium by the last day of the month prior to the month of coverage. However, the reinstatement must occur within the calendar month following the month of nonpayment and the premium must be paid in full prior to reinstatement.

86.8(5) *Method of premium payment.* Premiums may be submitted in the form of cash, personal checks, automatic bank account withdrawals, or other methods established by the third-party administrator.

86.8(6) *Failure to pay premium.* Failure to pay the premium in accordance with subrules 86.8(3) and 86.8(5) shall result in disenrollment from the plan and cancellation from the program unless the reinstatement provisions of subrule 86.8(4) apply. Once a child is disenrolled and canceled from the program due to nonpayment of premiums, the family must reapply for coverage.

86.8(7) *Copayment.* There shall be a $25 copayment for each emergency room visit if the child's medical condition does not meet the definition of emergency medical condition.

441—86.9(77GA,ch1196) Annual reviews of eligibility. All eligibility factors shall be reviewed at least every 12 months to establish ongoing eligibility for the program. "Month one" shall be the first month in which coverage is provided.

86.9(1) *Review form.* The family shall complete Form 470-3526, Healthy and Well Kids in Iowa (HAWK-I) Application, and provide information and verification of current income as part of the review process.

86.9(2) *Failure to provide information.* The child shall not be enrolled for the next 12-month period if the family fails to provide information and verification of income or otherwise fails to cooperate in the annual review process.

86.9(3) *Change in plan.* At the time of the annual review of eligibility, if more than one plan is available, the family shall designate whether the child is to remain enrolled in the current plan or is to be enrolled in another plan. The plan choice shall be designated in writing by completing Form 470-3574, Healthy and Well Kids in Iowa (HAWK-I) Selection of Plan.

441—86.10(77GA,ch1196) Reporting changes. Changes that may affect eligibility shall be reported to the third-party administrator as soon as possible but no later than ten working days after the change. "Day one" shall begin with the date of the change. The parent, guardian, or other adult responsible for the child shall report the change. If the child is emancipated, married, or otherwise in an independent living situation, the child shall be responsible for reporting the change.

86.10(1) *Pregnancy.* The pregnancy of a child shall be reported when the pregnancy is diagnosed.

86.10(2) *Entry to a nonmedical public institution.* The entry of a child into a nonmedical public institution, such as a penal institution, shall be reported following entry to the institution.

86.10(3) *Iowa residence is abandoned.* The abandonment of Iowa residence shall be reported following the move from the state.

86.10(4) *Other insurance coverage.* Enrollment of the child in other health insurance coverage shall be reported.

86.10(5) *Employment with the state of Iowa.* The employment of the child's parent with the state of Iowa shall be reported.

86.10(6) *Decrease in income.* If the family reports a decrease in income, the third-party administrator shall ascertain whether the change affects the premium obligation of the family. If the change is such that the family is no longer required to pay a premium in accordance with the provisions of rule 441—86.8(77GA,ch1196), premiums will no longer be charged beginning with the month following the month of the report of the change.

86.10(7) *Failure to report changes.* Any benefits paid during a period of time in which the child was ineligible due to unreported changes will be subject to recoupment.

441—86.11(77GA,ch1196) Notice requirements. The applicant or enrollee shall be notified in writing of the decision of the third-party administrator regarding the applicant or enrollee's eligibility for the HAWK-I program. If the applicant or enrollee has been determined to be ineligible, an explanation of the reason shall be provided.

441—86.12(77GA,ch1196) Appeals and fair hearings. If the applicant or enrollee disputes a decision by the third-party administrator to reduce, cancel or deny participation in the HAWK-I program, the applicant or enrollee may appeal the decision in accordance with 441—Chapter 7.

441—86.13(77GA,ch1196) Third-party administrator. The third-party administrator shall have the following responsibilities:

86.13(1) *Determination of eligibility.* The third-party administrator shall determine eligibility in accordance with the provisions of rule 441—86.2(77GA,ch1196).

86.13(2) *Dissemination of application forms and information.* The third-party administrator shall disseminate the following:

a. Application forms to any organization or individual making a request in accordance with the provisions of subrule 86.3(1).

b. Outreach materials to any organization or individual making a request.

c. Participating health plan information.

d. Other materials as specified by the department.

86.13(3) *Toll-free dedicated customer services line.* The third-party administrator shall maintain a toll-free multilingual dedicated customer service line in accordance with the requirements of the department.

86.13(4) *HAWK-I program web site.* The third-party administrator shall work in cooperation with the department to maintain a web site providing information about the HAWK-I program.

86.13(5) *Application process.* The third-party administrator shall process applications in accordance with the provisions of rule 441—86.3(77GA,ch1196).

a. Processing applications and mailing of approvals and denials shall be completed within ten working days of receipt of the application and all necessary information and verification unless the application cannot be processed within this period for a reason beyond the control of the third-party administrator.

b. Original verification information shall be returned to the applicant or enrollee upon completion of review.

86.13(6) *Tracking of applications.* The third-party administrator shall track and maintain applications. This includes, but is not limited to, the following procedures:

a. Date-stamping all applications with the date of receipt.

b. Screening applications for completeness and requesting in writing any additional information or verification necessary to establish eligibility. All information or verification of information attained shall be logged.

c. Entering all applications received into the data system with an identifier status of pending, approved, or denied.

d. Referring applications to the county office of the department, when appropriate, and receiving application referrals from the department.

e. Tracking any waiting periods before coverage can begin in accordance with subrule 86.2(4).

f. Notifying the plans when the number of enrollees who speak the same non-English language equals or exceeds 10 percent of the number of enrollees in the plan.

86.13(7) *Effective date of coverage.* The third-party administrator shall establish effective date of coverage in accordance with the provisions of rule 441—86.5(77GA, ch1196).

86.13(8) *Selection of plan.* The third-party administrator shall provide participating health plan information to families of eligible children by telephone or mail and, if necessary, offer unbiased assistance in the selection of a plan in accordance with the provisions of rule 441—86.6(77GA, ch1196).

86.13(9) *Enrollment.* The third-party administrator shall notify participating health plans of enrollments.

86.13(10) *Disenrollments.* The third-party administrator shall disenroll an enrollee in accordance with the provisions of rule 441—86.7(77GA,ch1196). The third-party administrator shall notify the participating health plan when an enrollee is disenrolled.

86.13(11) *Annual reviews of eligibility.* The third-party administrator shall annually review eligibility in accordance with the provisions of rules 441—86.2(77GA,ch1196) and 86.9(77GA,ch1196).

86.13(12) *Acting on reported changes.* The third-party administrator shall ensure that all changes reported by the HAWK-I enrollee in accordance with rule 441—86.10(77GA,ch1196) are acted upon no later than ten working days from the date the change is reported.

86.13(13) *Premiums.* The third-party administrator shall:

a. Calculate premiums in accordance with the provisions of rule 441—86.8(77GA,ch1196).

b. Collect HAWK-I premium payments. The funds shall be deposited into an interest-bearing account maintained by the department for periodic transmission of the funds and any accrued interest to the HAWK-I trust fund in accordance with state accounting procedures.

c. Track the status of the enrollee premium payments and provide the data to the department.

d. Mail a reminder notice to the family if the premium is not received by the due date.

86.13(14) *Notices to families.* The third-party administrator shall develop and provide timely and adequate approval, denial, and cancellation notices to families that clearly explain the action being taken in regard to an application or an existing enrollment. Denial and cancellation notices shall clearly explain the appeal rights of the applicant or enrollee. All notices shall be available in English and Spanish.

86.13(15) *Records.* The third-party administrator shall at a minimum maintain the following records:

a. All records required by the department and the department of inspections and appeals.

b. Records which identify transactions with or on behalf of each enrollee by social security number or other unique identifier.

c. Application, case and financial records.

d. All other records as required by the department in determining compliance with any federal or state law or rule or regulation promulgated by the United States Department of Health and Human Services or by the department.

86.13(16) *Confidentiality.* The third-party administrator shall protect and maintain the confidentiality of HAWK-I applicants and enrollees in accordance with 441—Chapter 9.

86.13(17) *Reports to the department.* The third-party administrator shall submit reports as required by the department.

86.13(18) *Systems.* The third-party administrator shall maintain data files that are compatible with the department's and the health plans' data files and shall make the system accessible to department staff.

441—86.14(77GA,ch1196) Covered services. The benefits provided under the HAWK-I program shall meet a benchmark, benchmark equivalent, or benefit plan that complies with Title XXI of the federal Social Security Act.

86.14(1) *Required services.* The participating health plan shall cover at a minimum the following medically necessary services:

a. Inpatient hospital services (including medical, surgical, intensive care unit, mental health, and substance abuse services).

b. Physician services (including surgical and medical, and including office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits).

c. Outpatient hospital services (including emergency room, surgery, lab, and x-ray services and other services).

d. Ambulance services.

e. Physical therapy.

f. Nursing care services (including skilled nursing facility services).

g. Speech therapy.
h. Durable medical equipment.
i. Home health care.
j. Hospice services.
k. Prescription drugs.
l. Dental services (including restorative and preventative services).
m. Hearing services.
n. Vision services (including corrective lenses).

86.14(2) *Abortion.* Payment for abortion shall only be made under the following circumstances:

a. The physician certifies that the pregnant enrollee suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the enrollee in danger of death unless an abortion is performed.

b. The pregnancy was the result of an act of rape or incest.

441—86.15(77GA,ch1196) Participating health plans.

86.15(1) *Licensure.* The participating health plan must be licensed by the division of insurance of the department of commerce to provide health care coverage in Iowa or be an organized delivery system licensed by the director of public health to provide health care coverage.

86.15(2) *Services.* The participating health plan shall provide health care coverage for the services specified in rule 441—86.14(77GA,ch1196) to all children determined eligible by the third-party administrator.

a. The participating health plan shall make services it provides to HAWK-I enrollees at least as accessible to the enrollees (in terms of timeliness, duration and scope) as those services are accessible to other commercial enrollees in the area served by the plan.

b. Participating health plans shall ensure that emergency services (inpatient and outpatient) are available for treatment of an emergency medical condition 24 hours a day, seven days a week, either through the health plan's own providers or through arrangements with other providers.

c. If a participating plan does not provide statewide coverage, the plan shall participate in every county within the region in which the plan has contracted to provide services in which it is licensed and in which a provider network has been established. Regions are specified in rule 441—86.1(77GA, ch1196).

86.15(3) *Premium tax.* Premiums paid to participating health plans by the third-party administrator are exempt from premium tax.

86.15(4) *Provider network.* The participating health plan shall establish a network of providers. Providers contracting with the participating health plan shall comply with HAWK-I requirements, which shall include collecting copayments, if applicable.

86.15(5) *Medical cards.* Medical identification cards shall be issued by the participating health plan to the enrollees for use in securing covered services.

86.15(6) *Marketing.*

a. Participating health plans may not distribute directly or through an agent or independent contractor any marketing materials.

b. All marketing materials require prior approval from the department.

c. At a minimum, participating health plans must provide the following written material:

(1) A current member handbook that fully explains the services available, how and when to obtain them, and special factors applicable to the HAWK-I enrollees. At a minimum the handbook shall include covered services, network providers, exclusions, emergency services procedures, 24-hour toll-free number for certification of services, daytime number to call for assistance, appeal procedures, enrollee rights and responsibilities, and definitions of terms.

(2) All plan literature and brochures shall be available in English and any other language when enrollment in the plan by enrollees who speak the same non-English language equals or exceeds 10 percent of all enrollees in the plan and shall be made available to the third-party administrator for distribution.

d. All health plan literature and brochures shall be approved by the department.

e. The participating health plans shall not, directly or indirectly, conduct door-to-door, telephonic, or other "cold-call" marketing.

f. The participating health plan may make marketing presentations at the discretion of the department.

86.15(7) *Appeal process.* The participating health plan shall have a written procedure by which enrollees may appeal issues concerning the health care services provided through providers contracted with the plan and which:

a. Is approved by the department prior to use.

b. Acknowledges receipt of the appeal to the enrollee.

c. Establishes time frames which ensure that appeals be resolved within 60 days, except for appeals which involve emergency medical conditions, which shall be resolved within time frames appropriate to the situations.

d. Ensures the participation of persons with authority to take corrective action.

e. Ensures that the decision be made by a physician or clinical peer not previously involved in the case.

f. Ensures the confidentiality of the enrollee.

g. Ensures issuance of a written decision to the enrollee for each appeal which shall contain an adequate explanation of the action taken and the reason for the decision.

h. Maintains a log of the appeals which is made available to the department at its request.

i. Ensures that the participating health plan's written appeal procedures be provided to each newly covered enrollee.

j. Requires that the participating health plan make quarterly reports to the department summarizing appeals and resolutions.

86.15(8) *Appeals to the department.* Rescinded IAB 1/13/99, effective 1/1/99.

86.15(9) *Records and reports.* The participating health plan shall maintain records and reports as follows:

a. The plan shall comply with the provisions of rule 441—79.3(249A) regarding maintenance and retention of clinical and fiscal records and shall file a letter with the commissioner of insurance as described in Iowa Code section 228.7. In addition, the plan must maintain a medical records system that:

(1) Identifies each medical record by HAWK-I enrollee identification number.

(2) Maintains a complete medical record for each enrollee.

(3) Provides a specific medical record on demand.

(4) Meets state and federal reporting requirements applicable to the HAWK-I program.

(5) Maintains the confidentiality of medical records information and releases the information only in accordance with established policy below:

1. All medical records of the enrollee shall be confidential and shall not be released without the written consent of the enrollee or responsible party.

2. Written consent is not required for the transmission of medical records information to physicians, other practitioners, or facilities that are providing services to enrollees under a subcontract with the plan. This provision also applies to specialty providers who are retained by the plan to provide services which are infrequently used, which provide a support system service to the operation of the plan, or which are of an unusual nature. This provision is also intended to waive the need for written consent for department staff and the third-party administrator assisting in the administration of the program, reviewers from the peer review organization (PRO), monitoring authorities from the Health Care Financing Administration (HCFA), the plan itself, and other subcontractors which require information as described under numbered paragraph "5" below.

EXCEPTION: Written consent is required for the transmission of medical records relating to substance abuse, HIV, or mental health treatment in accordance with state and federal laws.

3. Written consent is not required for the transmission of medical records information to physicians or facilities providing emergency care pursuant to paragraph 86.15(2)*"b."*

4. Written consent is required for the transmission of the medical records information of a former enrollee to any physician not connected with the plan.

5. The extent of medical records information to be released in each instance shall be based upon a test of medical necessity and a "need to know" on the part of the practitioner or a facility requesting the information.

6. Medical records maintained by subcontractors shall meet the requirements of this rule.

b. Each plan shall provide at a minimum reports and plan information to the third-party administrator as follows:

(1) A list of providers of medical services under the plan.

(2) Information regarding the plan's appeals process.

(3) A plan for a health improvement program.

(4) Periodic financial, utilization and statistical reports as required by the department.

(5) Encounter data on a monthly basis as required by the department.

(6) Time-specific reports which define activity for child health care, appeals, and other designated activities which may, at the department's discretion, vary among plans, depending on the services covered and other differences.

(7) Other information as directed by the department.

86.15(10) *Systems.* The participating health plan shall maintain data files that are compatible with the department's and third-party administrator's systems.

86.15(11) *Payment to the participating health plan.*

a. In consideration for all services rendered by a plan, the plan shall receive a payment each month for each enrollee. This capitation rate represents the total obligation of the department with respect to the costs of medical care and services provided to the enrollees.

b. The capitation rate shall be actuarially determined by the department July of 2000 and each fiscal year thereafter using statistics and data assumptions and relevant experience derived from similar populations.

c. The capitation rate does not include any amounts for the recoupment of losses suffered by the plan for risks assumed under the current or any previous contract. The plan accepts the rate as payment in full for the contracted services. Any savings realized by the plan due to lower utilization from a less frequent incidence of health problems among the enrolled population shall be wholly retained by the plan.

d. If an enrollee has third-party coverage or a responsible party other than the HAWK-I program available for purposes of payment for medical expenses, it is the right and responsibility of the plan to investigate these third-party resources and attempt to obtain payment. The plan shall retain all funds collected through third-party sources. A complete record of all income from these sources must be maintained and made available to the department.

86.15(12) *Quality assurance.* The plan shall have in effect an internal quality assurance system.

These rules are intended to implement 1998 Iowa Acts, chapter 1196.

[Filed emergency 12/23/98 after Notice 11/4/98—published 1/13/99, effective 1/1/99]

[Filed emergency 12/23/98—published 1/13/99, effective 1/1/99]

ENVIRONMENTAL PROTECTION COMMISSION[567]

Former Water, Air and Waste Management[900], renamed by 1986 Iowa Acts, chapter 1245, Environmental Protection Commission under the "umbrella" of the Department of Natural Resources.

TITLE I

GENERAL

TITLE II

AIR QUALITY

CHAPTER 20
SCOPE OF TITLE—DEFINITIONS—FORMS—RULES OF PRACTICE

CHAPTER 21
COMPLIANCE

CHAPTER 22
CONTROLLING POLLUTION

CHAPTER 11
TAX CERTIFICATION OF POLLUTION CONTROL OR RECYCLING PROPERTY

[Prior Rules on the subject, DEQ Chs 12 and 23]
[Prior to 12/3/86, Water, Air and Waste Management[900]]
[Prior to 10/19/88, Environmental Protection Commission 567—Ch 8]

567—11.1(427) Scope. This chapter applies to persons who request certification by the department pursuant to Iowa Code section 427.1(32) that property is air or water pollution control or recycling property.

567—11.2(427,17A) Form. A complete Form PR-01675, which is available through the local county assessor, the department of revenue and finance, or this department, must be submitted in order to request certification under this chapter. In completing the form, the applicant may adopt by reference any pertinent information contained in an application for a permit submitted to the department.

567—11.3(427) Time of submission. A request may be submitted at any time. Taxpayers are reminded that failure to dispatch a request sufficiently in advance of the February 1 deadline for filing with the assessing authority may cause the applicant to fail to qualify for the first possible annual exemption.

567—11.4(427) Notice. The department shall notify the taxpayer of the decision within ten days of receipt of a complete request. The notice shall include either the certificate if the decision is to certify the property as requested, or a concise statement of reasons for denial if the decision is to deny the request or to certify a lesser portion of the property than requested. The determination of the department to deny or grant only a portion of the request may be appealed to the commission pursuant to 567—Chapter 7.

567—11.5(427) Issuance. Upon the decision of the department or the commission on appeal to certify all or any portion of the property for which a request has been made, two copies of the certificate will be signed by the director or designee and mailed to the taxpayer. The certificate shall describe the property certified and state the date on which the department certified the property.

567—11.6(427) Criteria for determining eligibility.

11.6(1) *General.* Property which has been installed and is used primarily to meet an effluent standard, a water quality standard, an emission standard or to control hydrocarbons, fugitive dust, odors or other air contaminants in a reasonably adequate manner shall be considered to be used primarily to control or abate pollution of water or air of the state. Property which has been installed to meet a standard more stringent than an emission or water quality standard shall be considered to be used primarily to enhance the quality of the water or air of this state. Personal property or improvements to real property or any portion of the property, used primarily in the manufacturing process and resulting directly in the conversion of waste plastic, wastepaper products, or waste paperboard, into new raw materials or products composed primarily of recycled material shall be considered recycling property. Each request will be considered in the context of its particular circumstances.

11.6(2) *Denial.* Property may be denied certification if it is not being operated in compliance with the rules of the department so as to effectively control or abate pollution or enhance the quality of the air or water of the state, or recycle property into new raw materials or products composed primarily of recycled material. Property which was constructed or installed without permits required from the department will be denied certification unless and until such time as the property has received after-the-fact approval from the department.

11.6(3) *Examples.* The following examples are illustrative and not determinative:

a. Air - normally considered eligible.

(1) Inertial separators (cyclones, etc.).
(2) Wet collection devices (scrubbers).
(3) Electrostatic precipitators.
(4) Cloth filter collectors (baghouses).
(5) Direct fired afterburners.
(6) Catalytic afterburners.
(7) Gas adsorption equipment.
(8) Gas absorption equipment.
(9) Vapor condensers.
(10) Vapor recovery system.
(11) Floating roofs for storage tanks.
(12) Controlled flare stacks.
(13) Fugitive dust controls (such as enclosures or spray systems).
(14) Standby systems and spare parts such as cloth dust collector bags, nozzles and minor spare parts, required for the continuous operation of other pollution control property.
(15) Combinations of the above.
(16) Sampling or monitoring equipment for air contaminants for which there are standards where such equipment is owned and operated by the owner of the source of air contaminants, and the results from the use of such equipment are submitted to the department.

b. Air - normally considered ineligible.

(1) Land purchased or held as a site for pollution control property.
(2) Property which is constructed or installed in order to circumvent the rules of the department.
(3) Incinerators, provided that features added to or incorporated in incinerators for pollution control may be eligible.
(4) Solid waste compactors used in place of incinerators or open burning.
(5) Replacement boilers or changeovers in fuels unless made in compliance with an emissions reduction program approved by the department of water, air and waste management of the state of Iowa and unless in compliance with a schedule approved by the environmental protection agency.
(6) Consumable or process materials (e.g., in low sulfur coal purchased to replace higher sulfur content coal, or chemicals used in treatment).
(7) Process changes even if the taxpayer utilizes a process known to be "cleaner" than the previous process (e.g., replacing a cupola with an electic induction furnace, since both methods are used primarily for the production of iron and not for air pollution control).
(8) Property installed for the protection of employees from air contaminants inside commercial and industrial plants, works or shops under the jurisdiction of Iowa Code chapters 88 and 91.

c. Water - normally considered eligible.

(1) Pretreatment facilities such as those which neutralize or stabilize sewage, industrial waste or other waste from a point immediately preceding the point of such treatment, including necessary pumping and transmitting facilities.
(2) Treatment facilities such as those which neutralize or stabilize sewage, industrial waste or other waste from a point immediately preceding the point of such treatment to a point of disposal, including the necessary pumping and transmitting facilities.
(3) Improvements to real property, e.g., ancillary devices and facilities such as lagoons, ponds and structures for the storage or treatment of sewage, industrial waste or other waste from a plant or other property.
(4) Standby systems or spare parts which are required for the continuous operation of other pollution control property.

(5) Property which exclusively conveys or transports accumulated sewage, industrial waste or other recovered materials as an integral part of the control operation.

(6) A building which performs no function other than housing or sheltering other pollution control property.

(7) Sampling or monitoring equipment for water pollutants for which there are standards where such equipment is owned and operated by the owner of the source of water pollutants, and the results from the use of such equipment are submitted to the department.

(8) Property which dissipates heat (e.g., cooling towers).

d. Water - normally considered ineligible.

(1) Land purchased or held as a site for pollution control property or for land disposal of waste material.

(2) Property which merely dilutes sewage, industrial waste, or other waste (including heat) unless required by the department.

(3) Consumable or process materials (e.g., chemicals used in treatment).

(4) Licensed motor vehicles used to transport accumulated sewage, industrial waste, other waste or recovered materials.

These rules are intended to implement Iowa Code section 427.1.

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[Filed without Notice 10/22/93—published 11/10/93, effective 12/16/93]

CHAPTER 12
ENVIRONMENTAL SELF-AUDITS

567—12.1(77GA,ch1109) General.

12.1(1) *Scope.* This chapter sets forth rules governing voluntary disclosure of environmental noncompliance discovered as a result of an environmental self-audit conducted by or on behalf of a facility owner or operator under provisions of 1998 Iowa Acts, chapter 1109.

12.1(2) *Definitions.* As used in this chapter, the following terms shall have the following meanings:

"Act" means the environmental audit privilege and immunity Act, 1998 Iowa Acts, chapter 1109.

"Department" means the Iowa department of natural resources.

"Disclosure of violation" means the notice or disclosure made by a person to the department promptly upon discovery of a violation as a result of an environmental audit.

"Environmental audit" means a voluntary evaluation of a facility or operation, of an activity at a facility or operation, or of an environmental management system at a facility or operation, when the facility, operation, or activity is regulated under state or federal environmental laws, rules or permit conditions, conducted by an owner or operator, an employee of the owner or operator, or an independent contractor retained by an owner or operator that is designed to identify historical or current noncompliance with environmental laws, rules, ordinances, or permit conditions, discover environmental contamination or hazards, remedy noncompliance or improve compliance with environmental laws, or improve an environmental management system.

"Environmental audit report" means a document or set of documents generated and developed for the primary purpose and in the course of or as a result of conducting an environmental audit.

"Notice of audit" means the notice an owner or operator provides to the department before the owner or operator begins an environmental audit.

"Owner or operator" means the person or entity who caused the environmental audit to be undertaken.

"Request for extension" means a letter requesting an extension of the time period allowed for the completion of an environmental audit.

567—12.2(77GA,ch1109) Notice of audit. Owners or operators are not required to give the department notice of audit before beginning an environmental audit; however, they are encouraged to do so. Owners or operators may not be able to take advantage of immunity provisions under the Act if they fail to give notice to the department that they are planning to commence an environmental audit and the department initiates an inspection or investigation prior to the person's filing a disclosure of violation with the department. If notice of audit is given to the department, the audit must be completed within a reasonable time not to exceed six calendar months from the date the notice of audit is received by the department unless a request for extension has been filed with and granted by the department.

12.2(1) If a notice of audit is provided to the department, it must be submitted in writing by certified mail. A notice of audit should include the following information:

a. The name of the facility to be audited;

b. The location of the facility to be audited (address and city);

c. The description of the facility or portion of the facility, activity, operation or management system to be audited, including applicable department permit and registration numbers;

d. The date of anticipated initiation of audit (day, month, and year);

e. The general scope of audit, with sufficient detail to enable a determination of whether subsequently discovered violations are included. If the scope of the audit changes before it is completed, an amended notice shall be submitted promptly after this fact becomes known;

f. The names of the persons conducting the audit; and

g. The anticipated date of completion of the audit not to exceed six calendar months.

12.2(2) If, after providing notice of audit, an owner or operator determines the audit will not be completed by the initial anticipated completion date but within six calendar months from the date of the original notice of audit, the owner or operator should provide the department a written amendment to the notice of audit with the revised anticipated completion date, not to exceed six calendar months from the date of the original notice of audit. Amendments to the anticipated date of completion should be filed with the department prior to the expiration of the original listed anticipated date of completion. If the anticipated date of completion will go beyond six calendar months from the date of the original notice of audit, the owner/operator must file a request for extension pursuant to rule 12.3(77GA,ch1109) of this chapter.

12.2(3) A notice of audit is not privileged information and is considered public information subject to provisions of state open records laws in Iowa Code chapter 22.

12.2(4) If a notice of audit is provided to the department, the department will provide written acknowledgment of receipt with an assigned identification number for reference and tracking purposes.

567—12.3(77GA,ch1109) Request for extension. If notice of audit is given to the department, the audit must be completed within a reasonable time not to exceed six calendar months from the date the notice of audit is received by the department unless a written request for extension has been filed with and granted by the department based on reasonable grounds. Owners or operators are cautioned that continuation of an audit after the initial six-month period without prior written approval from the department may limit the availability of immunity under the Act.

12.3(1) A request for extension must be filed in writing with the department at least 30 calendar days prior to expiration of the initial six-month period and provide sufficient information for the department to determine whether reasonable grounds exist to grant an extension. Written requests for extension must be sent by certified mail. Failure to provide sufficient information could result in delay of approval or denial of the extension, which could jeopardize availability of immunity under the Act.

12.3(2) The department will provide written determination either granting or denying the request for extension within 15 calendar days of receipt of the written request for extension.

12.3(3) Requests for extension will be considered as amendments to the notice of audit and as such will not be considered privileged information. Requests for extension will be considered public information subject to the provisions of state open records laws in Iowa Code chapter 22.

567—12.4(77GA,ch1109) Disclosure of violation. An owner or operator wishing to take advantage of the immunity provisions of the Act must make a prompt voluntary disclosure to the department regarding an environmental violation which is discovered through an environmental audit.

12.4(1) A disclosure will be deemed voluntary if the following conditions apply:

a. The disclosure arises out of an environmental audit and relates to information considered privileged under the Act;

b. The disclosure is not otherwise required by federal or state law, rule, permit condition, or an order issued by the department;

c. If no current notice of audit covering the facility, activity, operation or management system is on file with the department, the disclosure is made prior to a violation being independently detected by the department or the initiation of an inspection or investigation by the department;

d. The violation is identified and disclosed to the department before there is notice of a citizen suit or a legal complaint filed by a third party; or before it is reported to the department by any person not involved in conducting the environmental audit or to whom the environmental audit was disclosed;

e. The violation does not involve intentional violation of state or federal law, rule, or permit condition, or result in substantial actual injury or imminent and substantial risk of injury to persons, property, or the environment; and

f. The owner or operator making the disclosure uses reasonable efforts to pursue compliance and to correct the noncompliance within a reasonable period of time after completion of the audit in accordance with a remediation schedule submitted to and approved in writing by the department.

12.4(2) An owner or operator may not be able to take advantage of the immunities under the Act from administrative or civil penalties if:

a. Violations are intentional;

b. Violations resulted in substantial actual injury or imminent and substantial risk of injury to persons, property, or the environment;

c. Violations resulted in a substantial economic benefit which gives an owner or operator a clear advantage over business competitors; or

d. The owner or operator has been found to have committed serious violations that constitute a pattern of continuous or repeated violations or is classified as a habitual violator as set forth in 1998 Iowa Acts, chapter 1109, section 8, subsection (7a).

12.4(3) A disclosure of violation must be sent to the department in writing by certified mail and include the following information:

a. Reference to the date of the relevant notice of audit and assigned reference number, if one was provided;

b. Time of initiation and completion of the audit, if applicable;

c. The names of the person or persons conducting the audit;

d. Affirmative assertion that a violation has been discovered;

e. Description of the violation discovered and reason for believing a violation exists;

f. Date of discovery of the violation and interim measures taken to abate the violation;

g. Duration of the violation if that can be determined; and

h. The status and schedule of proposed final corrective measures, if applicable.

12.4(4) A disclosure of violation is not an environmental audit report and is not privileged information under the Act. A disclosure of violation is public information subject to provisions of state open records laws in Iowa Code chapter 22. Owners or operators should not send copies of environmental audit reports to the department, unless specifically requested in writing by the department.

12.4(5) The department will acknowledge receipt of a disclosure of violation in writing which will include either concurrence or rejection of the proposed final corrective measures and schedule. This written acknowledgment will be sent to the owner or operator within 15 calendar days of receipt of the disclosure of violation.

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[Created by 1986 Iowa Acts, Senate File 2175]
[Merit Employment Department[570] prior to July 1, 1986]

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CHAPTER 1
DEFINITIONS
[Prior to 11/5/86, Merit Employment Department[570]]

581—1.1(19A) Definitions.

"Absence without leave" means any absence of an employee from duty without specific authorization.

"Act" means Iowa Code chapter 19A creating the department of personnel.

"Agency" means a department, independent agency, or statutory office provided for in the Iowa Code section 7E.2.

"Appointing authority" means the appointed or elected chief administrative head of a department, commission, board, independent agency, or statutory office or that person's designee.

"Base pay" means a fixed rate of pay for an employee that is exclusive of shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

"Call back pay" means extra pay for eligible employees who are directed by the appointing authority to report back to work outside of their regular scheduled work hours that are not contiguous to the beginning or the end of their scheduled work hours.

"Certification" means the referral of available names from an eligible list to an agency for the purpose of making a selection in accordance with these rules.

"Certified disability program" means that program covering persons with disabilities who have been certified by the vocational rehabilitation division of the department of education or the department for the blind as being able to perform the duties of a job class without participation in examinations used for the purpose of ranking qualified applicants on nonpromotional eligible lists.

"Class" means one or more positions so similar in duties, responsibilities, and qualifications that each may be assigned to the same job title and pay plan.

"Classification plan" means the printed list of job classifications and the related elements assigned to each. The classification plan is published annually by the department and revised as necessary.

"Compensatory leave" means leave accrued as a result of overtime, call back, standby, holidays, or holiday work.

**"Confidential employee"* means, for purposes of merit system coverage, the personal secretary of: an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director of a state agency; as well as the nonprofessional staff in the office of the auditor of state, and the nonprofessional staff in the department of justice except those reporting to the administrator of the consumer advocate division.

"Confidential employee" means for purposes of collective bargaining coverage, a representative of the employer who, as a major function of the job, determines and effectuates employment relations policy for the appointing authority, exercises independent discretion in establishing such policies, or is so closely related to or aligned with management as to potentially place the employee in a position of conflict of interest between the employer and coworkers. It also means any employee who works for the department, who has access to information subject to use in collective bargaining negotiations, or who works in a close continuing relationship with representatives associated with negotiating collective bargaining agreements on behalf of the state, as well as the personal secretary of: an elected official of the executive branch or a person appointed to fill a vacancy in an elective office, the chair of a full-time board or commission, or the director, deputy director, or division administrator of a state agency.

*Objection filed 12/2/86, see "Objection, 1.1" following. This definition was amended IAB 1/15/97, effective 2/19/97.

"Demotion" means the change of a nontemporary employee from one class to another having a lower pay grade. Demotions of permanent employees may be disciplinary, in lieu of layoff, or voluntary. Demotions of probationary employees may be disciplinary or voluntary.

"Department" means the Iowa department of personnel.

"Director" means the director of the Iowa department of personnel or the director's designee.

"Double spouse" means a husband and wife both employed by the state of Iowa.

"Examination" means the further screening of persons who meet the minimum qualifications for a job classification in order to have their names and scores placed on eligible lists.

"Fee-for-services contractor" means a person or entity that provides services on a contracted basis and who is paid a predetermined amount under that contract for rendering those services.

"Grievance" means an expressed difference, dispute, or controversy between an employee and the appointing authority, with respect to circumstances or conditions of employment.

"Health care provider" means a doctor of medicine or osteopathy who is authorized to practice medicine or perform surgery by the state in which the doctor practices, or any other person determined by the U.S. Secretary of Labor to be capable of providing health care services.

"Immediate family" means the employee's spouse, children, grandchildren, foster children, stepchildren, legal wards, parents, grandparents, foster parents, stepparents, brothers, foster brothers, stepbrothers, sons-in-law, brothers-in-law, sisters, foster sisters, stepsisters, daughters-in-law, sisters-in-law, aunts, uncles, nieces, nephews, first cousins, corresponding relatives of the employee's spouse, and other persons who are members of the employee's household.

"In loco parentis" means in the place of a son, daughter or parent and charged with the same rights, duties, and responsibilities as a son, daughter or parent.

"IRC" means Internal Revenue Code.

"Job classification" means one or more positions sufficiently similar in kind and level of duties and responsibilities that they may be grouped under the same title, pay plan, pay grade, and other elements included in the classification plan.

"Long-term disability" means a condition of an employee who is determined by the state of Iowa's long-term disability insurance carrier to be unable to work because of illness or injury.

"Merit system" means those positions or employees in the state personnel system determined by the director to be covered by the provisions of Iowa Code chapter 19A as it pertains to qualifications, examinations, competitive appointments, probation, and just cause discipline and discharge hearings.

"Minimum qualifications" means the minimum education, experience, or other background required to be considered eligible to apply for, or otherwise perform the duties of a particular job classification. Minimum qualifications are published in classification descriptions, and pertain only to positions covered by merit system provisions.

"Nonpay status" means that period of time when an employee does not work during scheduled work hours and the work absence is not covered by any kind of paid leave. This includes employees who do not supplement workers' compensation payments with paid leave.

"Overtime" means those hours that exceed 40 in a workweek for which an employee is entitled to be compensated.

"Overtime covered class, employee, or position" means a class, employee, or position determined to be eligible for premium overtime compensation in accordance with the federal Fair Labor Standards Act.

"Overtime exempt class, employee, or position" means a class, employee, or position determined to be ineligible for premium overtime compensation.

"Pay increase" means a periodic step or percentage increase in pay within the pay range for the class based on time spent, performance, or both.

"Pay plan" means one of the various schedules of pay grades and salaries established by the director to which classes in the classification plan are assigned.

"Permanent employee" means any executive branch employee (except board of regents employees) who has completed at least six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

"Position" means the grouping of specific duties and responsibilities assigned by an appointing authority that comprise a job to be performed by one employee. A position may be part-time or full-time, temporary or permanent, occupied or vacant, eligible or not eligible to be covered by a collective bargaining agreement, or covered or not covered by merit system provisions. Each position in the executive branch of state government shall be assigned one of the job classifications published in the classification plan.

"Position classification review" means the process of studying the kind and level of duties and responsibilities assigned to a position by comparing those duties and responsibilities to classification descriptions, classification guidelines, or other pertinent documents in order to determine the proper job classification to which a position will be assigned.

"Premium rate" means compensation equal to one and one-half hours for each hour of overtime.

"Probationary employee" means any executive branch employee (except board of regents employees) who has completed less than six months of continuous nontemporary employment. When used in conjunction with coverage by the merit system provisions referred to in Iowa Code section 19A.2A, unnumbered paragraph 3, it further means those employees who have not completed the period of probationary status provided for in Iowa Code subsection 19A.9(8).

"Promotion" means the acceptance by a nontemporary employee of an offer by an appointing authority to move to a position in a class with a higher pay grade and may involve movement between positions covered by merit system provisions and positions not covered by merit system provisions.

"Reassignment" means the movement of an employee and the position the employee occupies within the same organizational unit or to another organizational unit at the discretion of the appointing authority. A reassignment may include a change in duties, work location, days of work or hours of work, and may be temporary or permanent. A reassignment may result in a change form the employee's previous job classification.

"Reclassification" means the change of a position from one job classification to another based upon changes in the kind or level of the duties and responsibilities assigned by an appointing authority.

"Red-circled salary" means an employee's salary that exceeds the maximum for the pay grade in the pay plan to which the employee's class is assigned.

"Regular rate of pay" means the total compensation an employee receives including base pay, shift or educational differential, special or extraordinary duty pay, leadworker pay, or any other additional special pay.

"Same pay grade" means those pay grades in the various pay plans having the same pay grade number as well as those pay grades using a three-step pay range where those steps correspond to the top three steps of a six-step range. A three-step pay grade shall be considered the same as the corresponding six-step pay grade in determining whether an action is a promotion, demotion, or transfer.

"Serious health condition" means an illness, injury or impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential care facility or continuing treatment (i.e., two or more visits or treatments, or one visit that results in a continuing regimen of treatment) by a health care provider causing an absence from school or work of more than three consecutive days.

"Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty, or examination to determine the fitness of the person to perform such duty.

"Shift" means one segment of a 24-hour period in the work schedule of an appointing authority (e.g., day, evening, night shift).

"Shift differential" means extra pay for eligible employees who work shifts other than the day shift.

"Special duty assignment" means the temporary assignment of a permanent employee to a position in another class.

"Standby" means those times when eligible employees are required by the appointing authority to restrict their activities during off-duty hours so as to be immediately available for duty when required by the appointing authority, and is other than simply the requirement to leave word of their whereabouts in case of the need to be contacted.

"Temporary" means employment for a limited period of time, or employees with seasonal, emergency, intermittent, internship, trainee, or temporary status.

"Temporary services" means staffing provided by an outside vendor under an authorized contract, such as a temporary employment service, for a limited period of time.

"Transfer" means the movement of an employee from a position in a job class to a vacant position for which the employee qualifies in the same or different job class in the same pay grade. A transfer may include a change in duties, work location, days of work or hours of work. A transfer may be voluntary at the request of the employee, or involuntary at the discretion of the appointing authority.

"Uniformed services" means the United States armed forces and organized reserves (army, navy, air force or marines), the army national guard and the air national guard when engaged in active duty for training, inactive duty training, or full-time national guard duty, organized reserve duty, the commissioned corps of the public health service, coast guard, and any other category of persons designated by the President in time of war or emergency.

"Veteran" means any person honorably separated from active duty with the armed forces of the United States who served in any war, campaign, or expedition during the dates specified in Iowa Code section 35C.1.

"Work time" means all hours spent performing the duties of an assigned job; travel between job sites during or after the employee's regular hours of work (where no overnight expenses are involved); rest periods allowed during the employee's regular hours of work; and meal periods when less than 30 consecutive minutes is provided.

"Workweek" means a regularly recurring period of time within a 168-hour period of seven consecutive 24-hour days.

This rule is intended to implement Iowa Code section 19A.9.

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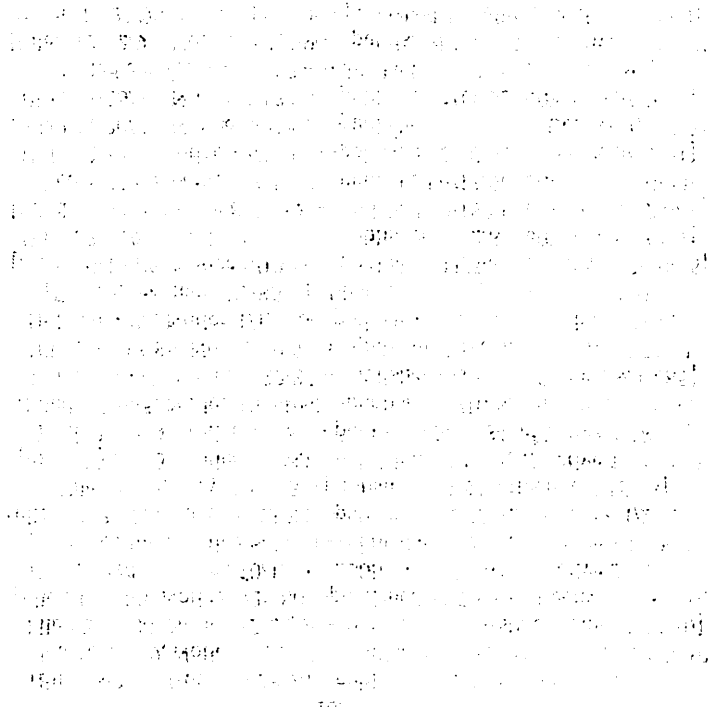
**See IAB Personnel Department.



CHAPTER 3
JOB CLASSIFICATION
[Prior to 11/5/86, Merit Employment Department[570]]

581—3.1(19A) Overall administration.

3.1(1) The director shall prepare, maintain, and revise a classification plan for the executive branch of state government such that positions determined by the director to be similar with respect to kind and level, as well as skill, effort, and responsibility of duties assigned may be included in the same job classification.

3.1(2) The director may add, delete, modify, suspend pending deletion or subdivide job classifications to suit the needs of the executive branch of state government.

581—3.2(19A) Classification descriptions and guidelines.

3.2(1) Classification descriptions are developed and published by the department as needed. They contain information about the job classification which may include examples of duties and responsibilities assigned, knowledges, abilities and skills required, and qualifications. They may be used by department staff as one of several resources for arriving at position classification decisions.

Classification descriptions are not intended to be all-inclusive. That some duties performed by an incumbent are or are not included in a classification description is in no way to be construed as an indication that a position is or is not assigned to the correct or incorrect job classification. Position classification decisions shall be based upon the preponderance of duties assigned to the position.

3.2(2) Position classification guidelines are developed and published by the department as needed. Their purpose is to document information about the duties and responsibilities that may be typically associated with a job classification or a series of job classifications. They may describe the kind and level of duties assigned, as well as the skill, effort, responsibilities and working conditions associated with job performance. Where the job classification being described is one in a series, the position classification guideline may compare and contrast the similarities and differences among levels in the series.

Position classification guidelines are generally intended for use by department staff as one of several resources that may be used in arriving at position classification decisions.

3.2(3) Nothing in a classification description or a position classification guideline shall limit an appointing authority's ability to assign, add to, delete or otherwise alter the duties of a position.

3.2(4) Changes to the minimum qualifications in a classification description shall have no effect on the status of employees in positions in that class, except where licensure, registration, or certification is changed or newly required.

581—3.3(19A) Position description questionnaires. Position description questionnaires shall be submitted to the director and kept current by the appointing authority on forms prescribed by the director for each position under an appointing authority's jurisdiction. The appointing authority shall assign duties to positions and may add to, delete or alter the duties of positions. An updated position description questionnaire shall be submitted to the department by the appointing authority whenever requested by the director or whenever changes in responsibilities occur that may impact a position's classification. Position description questionnaires are a public record.

581—3.4(19A) Position classification reviews.

3.4(1) The director shall decide the classification of all positions in the executive branch of state government except those specifically determined and provided for by law. Position classification decisions shall be based solely on duties permanently assigned and performed.

3.4(2) Position classification decisions shall be based on documented evidence of the performance of a kind and level of work that is permanently assigned and performed over 50 percent of the time and that is attributable to a particular job classification.

3.4(3) The director may initiate specific or general position classification reviews. An appointing authority or an incumbent may also submit a request to the director to review a specific position's classification. When initiated by other than the director, position classification review decisions shall be issued within 60 calendar days after the request is received by the department. If additional information is required by the department, it shall be submitted within 30 calendar days following the date it is requested. Until the requested information is received by the department, the 60-calendar-day review period may be suspended by the department.

3.4(4) Notice of a position classification review decision shall be given by the department to the incumbent and to the appointing authority. The decision shall become final unless the appointing authority or the incumbent submits a request for reconsideration to the department. The request for reconsideration shall be in writing, state the reasons for the request and the specific classification requested, and must be received in the department within 30 calendar days following the date the decision was issued. The final position classification decision in response to a request for reconsideration shall be issued by the department within 30 calendar days following receipt of the request.

3.4(5) The maximum time periods in the position classification review process may be extended when mutually agreed to in writing and signed by the parties.

3.4(6) Following a final position classification review decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based. A new position description questionnaire must be prepared and all new and substantively changed duties must be identified as such on the new questionnaire. The absence of a showing of substantive changes in duties shall result in the request being returned to the requester. A decision to return a request for failing to show substantive change in duties may be appealed to the classification appeal committee in accordance with rule 581—3.5(19A). The classification appeal committee shall rule only on the issue of whether a substantive change in duties has been demonstrated by the appellant. The appellant has the burden of proof to show by a preponderance of evidence that there has been a substantive change in duties.

3.4(7) The position classification review process is not a contested case.

581—3.5(19A) Classification appeals.

3.5(1) If, following a position classification review request, a decision notice is not issued within the time limit provided for in these rules, or the appointing authority or the incumbent does not agree with the department's final position classification review decision, the appointing authority or the incumbent may request a classification appeal committee hearing. The request shall be in writing and shall be mailed to: Chair, Classification Appeal Committee, Iowa Department of Personnel, Grimes State Office Building, East 14th Street at Grand Avenue, Des Moines, Iowa 50319-0150. The classification appeal hearing process is a contested case as defined by Iowa Code chapter 17A.

3.5(2) A classification appeal committee shall be appointed by the director.

3.5(3) A request for a classification appeal committee hearing must be in writing, state the reasons for the request and the specific classification requested. The request must be received in the department within 14 calendar days following the date the final position classification review decision notice was or should have been issued by the department.

3.5(4) The classification appeal committee hearing shall be scheduled within 30 calendar days following receipt of the request for a hearing unless otherwise mutually agreed to in writing and signed by the parties. All exhibits to be entered into evidence at the hearing shall be exchanged between the parties prior to the hearing. The hearing shall be held at the Grimes State Office Building during the regular business hours of the department. The appellant shall carry the burden of proof to show by a preponderance of evidence that the duties of the requested job classification are assigned and carried out on a permanent basis and are performed over 50 percent of the time. The committee shall grant or deny the job classification requested, remand the request to the director for further review, or decide whether there has been a substantive change in duties pursuant to an appeal under subrule 3.4(6) or 3.5(6). The committee's written decision shall be issued within 30 calendar days following the close of the hearing and the receipt of any posthearing submissions. The written decision of the committee shall constitute final agency action.

3.5(5) Requests for rehearing and judicial review of final classification appeal committee decisions shall be in accordance with Iowa Code section 17A.19.

3.5(6) Following a final classification appeal committee decision, any subsequent request for review of the same position must be accompanied by a showing of substantive changes from the position description questionnaire upon which the previous decision was based. A new position description questionnaire must be prepared, and all new and substantively changed duties must be identified as such on the new questionnaire. The absence of such a showing of substantive changes in duties shall result in the request being returned to the requester. A decision to return a request for failing to show substantive change in duties as defined in subrule 3.5(7) may be appealed to the classification appeal committee in accordance with rule 581—3.5(19A). The classification appeal committee shall rule only on the issue of whether a substantive change in duties has been demonstrated by the appellant. The appellant has the burden of proof to show by a preponderance of evidence that there has been a substantive change in duties.

3.5(7) As it relates to 581 IAC subrules 3.4(6) and 3.5(6), the phrase "substantive change" means that sufficient credible evidence exists, in the form of the deletion or addition to the duties in the requester's present classification, that would cause a reasonable person to believe that the duties of the requested classification are assigned and carried out on a permanent basis and are performed over 50 percent of the time.

581—3.6(19A) Implementation of position classification decisions.

3.6(1) Position classification changes shall not be retroactive and shall become effective only after approval by the director. Position classification changes approved by the director that are not made effective by the appointing authority within 90 calendar days following the date approved shall be void. Position classification changes that will have a budgetary impact shall not become effective approved by the department of management. If the appointing authority decides not to implement the change or the department of management does not approve funding for the change, duties commensurate with the current job classification shall be restored by the appointing authority within three pay periods following the date of that decision.

3.6(2) Except where licensure, registration or certification is required, an employee shall not be required to meet the minimum qualifications for the new job classification when a reclassification is the result of the correction of a position classification error, a class or series revision, the gradual evolution of changes in the position, legislative action, or other external forces clearly outside the control of the appointing authority.

3.6(3) An employee in a position covered by merit system provisions shall be required to meet the qualifications for the new job classification when the reclassification is the result of successful completion of an established training period where progression to the next higher level in the job classification series is customary practice, for reasons other than those mentioned in subrule 3.6(2), or when the reclassification is the result of a voluntary or disciplinary demotion. "Completion of an established training period" shall be the period provided for on the class descriptions for the class. In addition, employees with probationary status must be eligible for certification in accordance with 581—Chapter 9, Iowa Administrative Code.

3.6(4) In all instances of reclassification where licensure, certification, or obtaining a passing score on a test is required, that requirement shall be met by the employee within the time limits set forth by the director. If this requirement is not met, the provisions of rule 581—11.3(19A) shall apply.

3.6(5) Rescinded IAB 2/20/91, effective 3/29/91.

3.6(6) If an employee is ineligible to continue in a reclassified position and cannot otherwise be retained, the provisions of 581—Chapter 11, Iowa Administrative Code, regarding reduction in force shall apply.

3.6(7) An employee shall not be reclassified from a position covered by merit system provisions to a position not covered by merit system provisions without the affected employee's written consent regarding the change in merit system coverage. A copy of the written consent letter shall be forwarded by the appointing authority to the director. If the employee does not consent to the change in coverage, a reduction in force may be initiated in accordance with these rules or the applicable collective bargaining agreement provisions.

These rules are intended to implement Iowa Code section 19A.9 and Iowa Code chapters 19A, 19B and 70A.

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**See IAB Personnel Department
Note: The 7/24/91 IAC incorrectly identified subrule 3.5(5) as being delayed 70 days from 7/19/91. Correction published 8/7/91 IAC.

581—4.6(19A) Payroll transactions.

4.6(1) *Pay at least at minimum.* If a transaction results in an employee's being paid from a different pay plan or pay grade, the employee shall be paid at least the minimum pay rate of the class to which assigned, except as provided in subrules 4.5(3) and 4.5(4).

4.6(2) *Pay not to exceed maximum.* If a transaction results in an employee's being paid from a different pay plan or pay grade, the employee's pay shall not exceed the maximum pay rate of the class to which assigned, except as provided in subrule 4.6(3) or 4.6(13) or rule 4.8(19A).

4.6(3) *Red-circling.* If the pay of an employee in a noncontract class exceeds the maximum pay for the class to which assigned, the employee's pay may be maintained (red-circled) above the maximum for up to one year. Requests to change the time period or the red-circled rate must first be submitted to the director for approval. If approved, the appointing authority shall notify the employee in writing of any changes in the time period and the pay. If an employee's classification or agency changes, a request to rescind the red-circling may be submitted by the appointing authority to the director for approval. The director may also require red-circling in certain instances.

4.6(4) *Pay plan changes.* If a transaction results in an employee's being paid from a pay plan without steps, the employee shall be paid at the employee's current pay rate, except as provided in subrules 4.6(1) and 4.6(2). When the transaction results in an employee's being paid from a pay plan with steps, the employee shall be paid at a step in the pay plan that is closest to but not less than the employee's current pay rate, except that for demotions the employee's pay shall be at the discretion of the appointing authority so long as it is not greater than it was prior to the demotion. For setting eligibility dates, see subrule 4.7(5).

4.6(5) *Pay grade changes.* If a transaction results in an employee in a noncontract class being paid in a higher pay grade, the employee's pay may be increased by up to 5 percent for each grade above the employee's current pay grade, except as provided in subrules 4.6(1) and 4.6(2). The implementation of pay grade changes for employees in contract classes shall be negotiated with the applicable collective bargaining representative. For setting eligibility dates, see subrule 4.7(5).

4.6(6) *Promotion.* For setting eligibility dates, see subrule 4.7(5).

a. Noncontract classes. If an employee is promoted to a noncontract class, the employee may be paid at any rate in the pay grade of the pay plan to which the employee's new class is assigned, except as provided in subrules 4.6(1) and 4.6(2).

b. Contract classes. If an employee is promoted to a contract class without steps, the employee shall receive a 5 percent pay increase. If promoted to a contract class with steps, the employee shall receive a one-step pay increase, except as provided in subrules 4.6(1), 4.6(2) and 4.6(4).

c. Leadworker. If an employee who is receiving additional pay for leadworker duties is promoted, the pay increase shall be calculated using the employee's new base pay plus the leadworker pay.

4.6(7) *Demotion.* If an employee demotes voluntarily or is disciplinarily demoted, the employee may be paid at any step or pay rate that does not exceed the employee's pay at the time of demotion, except as provided in subrules 4.6(1), 4.6(2) and 4.6(4). For setting eligibility dates, see subrule 4.7(5).

4.6(8) *Transfer.* If an employee transfers under these rules to a different class, the employee shall be paid at the employee's current pay rate, except as provided in subrules 4.6(1), 4.6(2) and 4.6(4).

4.6(9) *Reclassification.* If an employee's position is reclassified, the employee shall be paid as provided for in subrule 4.6(6), 4.6(7) or 4.6(8), whichever is applicable. For setting eligibility dates, see subrule 4.7(5).

4.6(10) *Return from leave.* If an employee returns from an authorized leave, the employee shall be paid at the same step or pay rate as prior to the leave, including any pay increases to which the employee would have been eligible if not on leave, except as provided for in subrules 4.6(1) and 4.6(2). For setting eligibility dates, see subrule 4.7(5).

4.6(11) *Recall.* If an employee is recalled in accordance with 581—subrule 11.3(6), the employee shall be paid at the same step or pay rate as when laid off or bumped, except as provided in subrules 4.6(1) and 4.6(2). For setting eligibility dates, see subrule 4.7(5).

4.6(12) *Reinstatement.* When an employee is reinstated in accordance with rule 581—8.6(19A), the employee may be paid at any step or pay rate for the class to which reinstated. When the rate of pay is above the minimum, the decision to do so must be in accordance with subrule 4.5(1). For setting eligibility dates, see subrule 4.7(5).

4.6(13) *Change of duty station.* If an employee is promoted, reassigned or voluntarily demoted at the convenience of the appointing authority and a change in duty station beyond 25 miles is required, the employee may receive a one-step or up to 5 percent pay increase. The pay may exceed the maximum pay for the class to which assigned. Notice must first be given to the director. Subsequent changes in duty station may result in the additional pay being removed.

581—4.7(19A) Within grade increases.

4.7(1) *General.* An employee may receive a periodic step or percentage increase in base pay that is within the pay grade and pay plan of the class to which assigned upon completion of a minimum pay increase eligibility period.

a. Pay increase eligibility periods. The minimum pay increase eligibility period for employees paid from pay plans without steps shall be 52 weeks, except that it shall be 26 weeks for new hires and employees who receive an increase in base pay as a result of a promotion, reclassification or pay grade change. Minimum pay increase eligibility periods for employees paid from pay plans with steps shall be the number of weeks in the pay plan that corresponds to the employee's step.

b. Noncreditable periods. Except for required educational and military leave, periods of leave without pay exceeding 30 calendar days shall not count toward an employee's pay increase eligibility period.

c. Reduction of time periods. The director may authorize a reduction in pay increase eligibility periods for classes where there are unusual recruitment and retention circumstances.

4.7(2) *Noncontract classes.* An employee in a noncontract class may be given any amount of within grade pay increase up to the maximum pay rate for the employee's class. The pay increase shall be at the beginning of the pay period following completion of the employee's prescribed minimum pay increase eligibility period and shall not be retroactive, except as provided for in subrule 4.4(7).

a. Performance. Within grade pay increases shall be based on performance, and are not automatic, except as provided in subrule 4.5(3), and may be delayed beyond completion of the employee's minimum pay increase eligibility period. To be eligible, a within grade pay increase must be accompanied by a current performance evaluation on which the employee received a rating of at least "meets job expectations." Time spent on required educational or military leave shall be considered to "meet job expectations."

b. Lump sum. When budgetary conditions make it infeasible to grant within grade pay increases, an appointing authority may instead grant a lump sum increase. The increase shall not be added to the employee's base pay and shall be allowed only once in a fiscal year. Lump sum pay increases must be requested in writing from the director.

4.7(3) *Contract classes.* Within grade pay increases for employees in contract classes shall be in accordance with the terms of their collective bargaining agreement.

581—4.10(19A) Phased retirement. An employee who participates in the phased retirement program shall receive 10 percent of the employee's regular biweekly pay in addition to being paid for the number of hours the employee works or is in pay status during the pay period. An employee who is on leave without pay during an entire pay period shall not receive the additional 10 percent for that pay period.

581—4.11(19A) Overtime.

4.11(1) *Administration.* Job classes shall be designated by the director as overtime eligible or overtime exempt.

4.11(2) *Eligible job classes.* An employee in a job class designated as overtime eligible shall be paid at a premium rate (one and one-half hours) for every hour in pay status over 40 hours in a workweek.

4.11(3) *Exempt job classes.* An employee in an overtime exempt job class shall not be paid for hours worked or in pay status over 40 hours in a workweek, except as specifically provided for in a collective bargaining agreement.

4.11(4) *Method of payment.* Payment of overtime for employees in noncontract classes shall be in cash or compensatory time. The decision shall rest with the employee, except that the appointing authority may require overtime to be paid in cash. Employees in noncontract classes may elect compensatory time for call back, standby, holiday hours and for working on a holiday. Payment of overtime for employees in contract classes shall be in accordance with the terms of the applicable collective bargaining agreement.

4.11(5) *Compensatory time.* An overtime eligible employee in a noncontract class may accrue up to 80 hours of compensatory time before it must be paid off. Compensatory time may be paid off at any time, but it shall be paid off if the employee separates, transfers to a different agency, or moves to a class with a different overtime eligibility designation. The paying off of compensatory time for employees in classes covered by a collective bargaining agreement shall be in accordance with the terms of the applicable agreement.

4.11(6) *Holiday hours.* Holiday hours that have already been paid at a premium rate shall not be counted in calculating overtime.

These rules are intended to implement Iowa Code section 19A.9.

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**See IAB Personnel Department

CHAPTER 8
APPOINTMENTS
[Prior to 11/5/86, Merit Employment Department[570]]

581—8.1(19A) Filling vacancies. Unless otherwise provided for in these rules or the Iowa Code, the filling of all vacancies in the state personnel system shall be subject to the provisions of these rules. No vacant position in the executive branch shall be filled until the position has been classified in accordance with Iowa Code chapter 19A and these rules.

An employee who has participated in the phased retirement program shall not be eligible for permanent employment for hours in excess of those worked at the time of retirement. An employee who has participated in the early retirement or early termination program shall not be eligible for any state employment.

A person who has served as a commissioner or board member of a regulatory agency shall not be eligible for employment with that agency until two years after termination of the appointment.

581—8.2(19A) Probationary appointment. Probationary appointments may be made only to authorized and established positions unless these rules provide otherwise. Appointments to positions covered by merit system provisions shall be made in accordance with 581—Chapter 7 when applicable.

581—8.3(19A) Project appointment. Rescinded IAB 1/13/99, effective 2/17/99.

581—8.4(19A) Provisional appointment. If the director is unable to certify the names of at least six available applicants from a nonpromotional eligible list for a position covered by merit system provisions, an appointing authority may provisionally appoint a person who meets the minimum qualifications for the class to fill the position pending the person's examination, certification and appointment from a nonpromotional eligible list.

No provisional probationary appointment shall be continued for more than 30 calendar days after an adequate eligible list has been established, nor for more than a total of 180 calendar days after the date of original appointment. No provisional intermittent appointment shall be continued for more than 30 calendar days after an adequate eligible list has been established, nor for more than a total of 120 calendar days after the date of appointment.

Successive provisional appointments shall not be permitted. An employee with provisional status shall not be eligible for promotion, demotion, transfer, or reinstatement to any position nor have reduction in force or appeal rights, but provisional probationary employees shall be eligible for vacation and sick leave and other employee benefits.

An employee shall receive credit for time spent in provisional status toward the period of probationary status.

581—8.5(19A) Intermittent appointment. Persons may be appointed with intermittent status without regard to merit system provisions.

Intermittent appointments may be made to established intermittent positions or to permanent positions, or on an overlap basis to unauthorized positions, and may be made to any class and at any rate of pay within the range for the class to which appointed.

An intermittent appointment shall not exceed 700 work hours in a fiscal year. Hours worked in noncontract classes during the period provided for seasonal appointment in rule 581—8.11(19A) shall not accumulate toward this 700-hour maximum.

An intermittent employee may be given a probationary appointment in accordance with 581—subrule 7.3(2).

An intermittent employee shall have no rights to appeal, transfer, demotion, promotion, merit pay increases, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

A person appointed with intermittent status to classification covered by a collective bargaining agreement shall only be given another temporary type of appointment to the extent that the total number of hours worked in all temporary appointments in a fiscal year does not exceed 700 hours. Prior to accumulating 700 hours worked, the employee shall either be given a probationary appointment, given a temporary appointment in a noncontract class, or terminated.

581—8.6(19A) Reinstatement. A permanent employee who left employment for other than just cause may be reinstated with permanent or probationary status to any class for which qualified at the discretion of an appointing authority. Reinstatement shall not require certification from a list of eligibles. The period of reinstatement eligibility shall be equal to the period of continuous state employment immediately prior to the employee's separation, to a maximum of two years. Current employees and employees who have retired from state government shall not be eligible for reinstatement. Retired former employees may, however, apply for employment in accordance with 581—paragraph 5.2(4)*"b."*

A permanent employee who demotes may at any time be reinstated to a position in the class occupied prior to the demotion at the discretion of the appointing authority. Reinstatement shall not require certification from a list of eligibles.

Former employees who are reinstated shall accrue vacation at the same rate as at the time they separated from state employment, and the employee's previous vacation anniversary date minus the period of separation shall be restored. This paragraph shall be effective retroactive to January 1, 1995.

581—8.7(19A) Emergency appointment. The director may authorize appointing authorities to make emergency appointments to positions. Emergency appointments may be made to any class and at any rate of pay within the range for the class to which appointed. Emergency appointments shall not exceed 350 hours for any one person in any one fiscal year.

Persons may be appointed with emergency status without regard to merit system provisions and shall have no rights to appeal, transfer, promotion, demotion, merit pay increases, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

A person appointed with emergency status to a classification covered by a collective bargaining agreement shall not work in excess of 350 hours in that status in such a class or classes, nor shall that person accumulate more than 700 hours worked in any combination of temporary statuses in any agency or any combination of agencies during a fiscal year.

581—8.8(19A) Appointments to work-test classes. Persons appointed to positions in work-test classes as provided for in Iowa Code section 19A.9, subsection 23, may be given either probationary, intermittent, emergency, or trainee status, according to provisions in these rules, and shall be subject to rules and acquire benefits according to their status. Employees who have attained permanent status and are subsequently demoted, transferred, or promoted to another permanent position in a work-test class shall retain their permanent status. Persons appointed to positions covered by merit system provisions shall be required to meet the minimum qualifications for the class, but will not require examination or certification.

581—8.9(19A) Trainee appointment. The director may authorize an appointing authority to make a trainee appointment to a permanent position covered by merit system provisions of a person who does not meet the minimum qualifications for the class. The trainee shall be a bona fide student in an accredited educational institution, or enrolled in an agency-affiliated training program approved by the director, and have successfully completed at least one semester, or its equivalent, of instruction. Appointees must be at least 14 years of age and possess work permits if required. Appointment may be continued up to three semesters or its equivalent, in a two-year period. Employees with trainee status shall have no rights of appeal, transfer, demotion, promotion, reinstatement, or other rights of position; nor be entitled to vacation, sick leave, or other benefits.

581—8.10(19A) Internship appointment. The director may authorize an appointing authority to make an internship appointment to an established position, or if funds are available, to an unauthorized position.

8.10(1) Internship appointments to the class of administrative intern may be made for a period not to exceed one year unless otherwise authorized by the director. Internship appointments to the class of transportation engineer intern shall expire upon attainment of an undergraduate degree.

8.10(2) Employees with internship status shall have no rights of appeal, transfer, demotion, promotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits of state employment, nor shall credit be given for future vacation accrual purposes.

8.10(3) Successful completion of an internship appointment of at least 90 calendar days shall authorize the appointee to be certified from a promotional list for any job class for which the appointee has submitted an application and qualifies. Only persons formally enrolled in the department's intern development program are eligible to be on promotional lists. Successful completion shall be as determined by the director at the time of enrollment. An intern's name may remain on the promotional list for up to two years. If an appointment has not been made by the end of the two-year period, the name will be removed from the list. The intern may then reapply through the standard nonpromotional process. After initial selection from a promotional certificate, the intern's name shall be removed from all promotional lists until permanent status has been attained.

581—8.11(19A) Seasonal appointment. The director may authorize appointing authorities to make seasonal appointments to positions. Seasonal appointments may be made to any class and at any rate of pay within the range for the class to which appointed. Seasonal appointments may, however, be made only during the seasonal period approved by the director for the agency requesting to make the appointment, and must be concluded by the end of that period. To be eligible to make seasonal appointments, the appointing authority must first submit a proposed seasonal period to the director for approval. Such period shall not exceed six months in a fiscal year; however, the appointment may start as early as the beginning of the pay period that includes the first day of the seasonal period and may end as late as the last day of the pay period that includes the last day of the seasonal period.

Persons may be appointed with seasonal status without regard to merit system provisions and shall have no rights of appeal, transfer, promotion, demotion, reinstatement, or other rights of position, nor be entitled to vacation, sick leave, or other benefits.

A person appointed with seasonal status to a classification covered by a collective bargaining agreement shall not work in excess of 700 hours in that status in such a class or classes, nor shall that person accumulate more than 700 hours worked in any combination of temporary statuses in any agency or any combination of agencies during a fiscal year.

581—8.12(19A) Overlap appointment. When it is considered necessary to fill a position on an overlap basis pending the separation of an employee, the appointment of a new employee may be made in accordance with these rules for a period not to exceed 30 calendar days. An overlap appointment must be in the same class as the authorized position being overlapped, unless otherwise approved by the director. Any overlap appointment for a longer period must first be approved by the director.

581—8.13(19A) Rescinding appointments. If, after being appointed, it is found that an employee should have been disqualified or removed as provided for in 581—subrules 5.2(6) or 5.2(7) or rule 581—6.5(19A) or 7.7(19A), the director may rescind the appointment. An employee with permanent status may appeal the director's decision to the public employment relations board. The appeal must be filed within 30 calendar days after the date the director's decision was issued. Decisions by the public employment relations board constitute final agency action.

These rules are intended to implement Iowa Code section 19A.9.

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*Effective date of amendments to 8.3 and 8.7 delayed 70 days by Administrative Rules Review Committee. Delay lifted by Committee on 2/8/83. See details following chapter analysis.
**Rule 8.12 inadvertently omitted 8/12/87 and added 9/9/87.

6. Proposed premium rates supported by:
- Actual claims and utilization experience;
- Quoted trend factors;
- Quality assurance indicators;
- A description of the rating methodology used to develop the rate quote;
- A description of the application of the rating methodology used in developing the rate quote; and
- Other potential administrative issues not listed.

7. A copy of the surety bond referenced in IAC 641—subrule 201.12(3).

d. ODS compliance. Each ODS shall be governed by the following provisions:

(1) Annual data reports shall be furnished to the director in accordance with the director's specifications. If all other requirements have been met, and it is the initial year that an ODS has been authorized to offer benefits to state employees, failure to comply with the state group specific data requirement shall not result in the removal of the ODS from the state benefit plan.

(2) The results of the most recent member satisfaction survey and a copy of the most recent report filed with the department of public health regarding measures of quality and access shall be furnished to the director.

581—15.2(19A) Dental insurance. The director is authorized by the executive council of Iowa to administer dental insurance programs for employees of the state of Iowa, except for employees of the board of regents. An insurance carrier or other entity proposing to provide a group dental insurance plan or a prepaid group dental care plan to state employees shall, as an entity or in terms of the plan proposed be eligible to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

15.2(1) Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department.

15.2(2) Their proposed premium rates, administrative service charges, and reserve interest rates.

581—15.3(19A) Life insurance. The director is authorized by the executive council of Iowa to administer life insurance programs for employees of the state of Iowa, except for employees of the board of regents.

An insurance carrier or other entity proposing to provide a group life insurance plan to state employees shall, as an entity or in terms of the plan proposed, be eligible to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

15.3(1) Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department.

15.3(2) Their proposed premium rates, administrative service charges, and reserve interest rates.

581—15.4(19A) Long-term disability insurance. The director is authorized by the executive council of Iowa to administer long-term disability insurance programs for employees of the state of Iowa, except for employees of the board of regents.

An insurance carrier or other entity proposing to provide group long-term disability benefits, administrative services, or insurance services to state employees shall, as an entity or in terms of the plan proposed, be eligible to contract with the executive council of Iowa as provided in Iowa Code section 509A.6, and shall provide the following to the department not later than March 1 preceding the plan year for which services are proposed:

15.4(1) Their proposed solicitation brochures, membership literature, and master contracts. Content of these materials in terms of clarity of benefit, service, and plan funding descriptions shall require approval by the department.

15.4(2) Their proposed premium rates if an insurance plan, proposed plan funding rates if a benefits administration plan, proposed administrative service charges, and proposed reserve interest rates.

15.4(3) Employees who receive benefits under the state workers' compensation program shall have those benefits, except for benefits designated as medical costs pursuant to Iowa Code section 85.27 and that portion of benefits paid as attorneys' fees approved pursuant to Iowa Code section 86.39, deducted from any state long-term disability benefits received where the workers' compensation injury or illness was a substantial contributing factor to the award of long-term disability benefits. Disability benefit payments will be further reduced by primary and family social security payments as determined at the time social security disability payments commence, railroad retirement disability income, and any other state-sponsored sickness or disability benefits payable.

581—15.5(19A) Health benefit appeals.

15.5(1) A member who disagrees with a group health benefit company's decision on the application of group contract benefits may:

a. File a written appeal with the respective company as defined in the group contract, or

b. File a written appeal with the commissioner of insurance at the department of commerce.

15.5(2) A member who disagrees with an organized delivery system's decision on the application of group contract benefits may:

a. File a written appeal with the respective ODS as defined in the group contract, or

b. File a written appeal with the director of the department of public health.

581—15.6(19A) Deferred compensation.

15.6(1) *Definitions.* The following definitions shall apply when used in this rule:

"Account" means any fixed annuity contract, variable annuity contract, life insurance contract, documents evidencing mutual funds, variable or guaranteed investments, or combination thereof provided for in the plan.

"Beneficiary" means the person or estate entitled to receive benefits under the plan following the death of the participant.

"Director" means the director of the Iowa department of personnel.

"Employee" means a nontemporary (permanent full-time or permanent part-time) employee of the employer, including full-time elected officials and members of the general assembly, except employees of the board of regents. For the purposes of enrollment, elected officials-elect and members-elect of the general assembly shall be considered employees. Persons in a joint employee relationship with the employer shall not be considered employees eligible to participate in the plan.

"Employer" means the state of Iowa and any other governmental employer that participates in the plan.

"Governing body" means the executive council of the state of Iowa.

"Group" means one or more employees.

"Investment provider" means a company authorized under this rule to issue an account or administer the records of such an account or accounts under the deferred compensation plan authorized by Iowa Code section 509A.12 and chapter 19A.

"Normal retirement age" means 70½ years of age, unless an earlier age is specified by a participating employee pursuant to the plan's catch-up provision.

"Participating employee" means any employee or former employee of the employer who is currently deferring or who has previously deferred compensation under the plan and who retains the right to benefits under the plan.

"Plan" means the state of Iowa deferred compensation 457 plan and trust as set forth in this document, and as it may be amended from time to time, and which has been authorized by Iowa Code section 509A.12 and chapter 19A.

"Plan administrator" means the designee of the director who is authorized to administer the plan.

"Plan year" means a calendar year.

"Trustee" means the director of the Iowa department of personnel.

15.6(2) *Plan administration.*

a. The director is authorized by the governing body to administer a deferred compensation program for employees of the state of Iowa and to enter into contracts and service agreements with deferred compensation product vendors for the benefit of state of Iowa employees and on behalf of the state of Iowa. This rule shall govern all investment options and participant activity for the funds placed in the program.

b. The trustee may at any time amend, modify, or terminate this plan without the consent of the participant (or any beneficiary thereof). All amendments that are adopted in emergency rule making shall be effective immediately upon filing with the administrative rules coordinator. Amendments that are adopted pursuant to nonemergency rule making shall be effective no sooner than 35 days after publication in the Iowa Administrative Bulletin. The plan administrator shall provide sufficient notice to participating employees and investment providers of all amendments to the plan. No amendment shall deprive participants of any of the benefits to which they are entitled under this plan with respect to deferred amounts credited to their accounts before the effective date of the amendment. If the plan is curtailed or terminated, or the acceptance of additional deferred amounts is suspended permanently, the plan administrator shall nonetheless be responsible for the supervision of the payment of benefits resulting from amounts deferred before the amendment, modification, or termination. Payment of benefits will be deferred until the participant would otherwise have been entitled to a distribution pursuant to the provisions of the plan.

c. Location of account documentation. The investment providers shall send the original annuity policies, contracts or account forms to the plan administrator. Failure to do so may result in termination of an investment provider's service agreement. All such original documents shall be kept by the plan administrator. Participating employees may review their own documentation during normal work hours at the department, but may not under any circumstances remove the documentation from the premises. Each participating employee shall be provided a copy of the documentation establishing the employee's account with an investment provider by the investment provider, subject to the terms and conditions of the investment provider's service agreement with the plan administrator. The copy being furnished to the participating employee shall be clearly marked that it is not the original. Original documents shall be held by the plan administrator until proceeds are disbursed under the terms of the participating employee's or beneficiary's chosen method of disbursement.

d. Participation in this plan by an employee shall not be construed to give a contract of employment to the participant or to alter or amend an existing employment contract of the participant, nor shall participation in this plan be construed as affording to the participant any representation or guarantee regarding the participant's continued employment.

e. The employer, trustee, and the investment providers do not represent or guarantee that any particular federal or state of Iowa income, payroll, personal property or other tax consequences will result because of the participant's participation in the plan. The participant is obligated to consult with the participant's own tax representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in the plan.

f. The investment providers shall, subject to the trustee's consent, have the power to appoint agents to act for the investment providers in the administration of accounts according to the terms, conditions, and provisions of their service agreements with the employer. Investment providers are responsible for the conduct of their agents. The plan administrator may require an investment provider to remove the authority of any agent to provide services to the plan or plan participants when cause has been shown that the agent has violated these rules or state or federal law or regulation related to the governance of the plan or agent conduct.

g. Plan expenses. Expenses incurred by the plan administrator while administering the plan, including fees and expenses approved by the plan trustee for investment advisory, custodial, recordkeeping, and other plan administration and communication services, and any other reasonable and necessary expenses or charges allocable to the plan that have been incurred for the exclusive benefit of plan participants and that have been approved by the plan trustee may be charged to the short-term interest that has accrued in the Deferred Compensation Trust Fund created by 1998 Iowa Acts, chapter 1039, section 1, prior to the allocation of funds to a participant's chosen investment provider.

h. Advisory committee and vendor panel. There shall be appointed by the plan trustee an advisory committee and vendor panel.

(1) The advisory committee shall consist of representatives appointed by the plan trustee of the legislative, judicial, and executive branches of government, public sector employees through their authorized collective bargaining representatives, and the private sector. Such representatives shall convene in regularly scheduled meetings, in a manner, time and place chosen by the plan trustee or designee to advise in the administration of the plan and the plan investment options. Such meetings shall occur no less than biannually.

(2) The vendor panel shall consist of a representative of each active investment provider under the plan and a representative of the authorized sales agents of the investment providers appointed by the plan trustee. Such representatives shall convene in regularly scheduled meetings in a manner, time and place chosen by the plan trustee or designee to aid in the efficient administration of the investment options under the plan. Such meetings shall occur no less than biannually. An executive committee of the vendor panel may be appointed by the plan trustee to convene at such times as may be necessary to aid in the administration of the investment options under the plan. The executive committee shall consist of the representatives of the sales agents of the investment providers, a representative of the active mutual fund investment provider(s), and a representative of the active fixed and variable annuity provider(s).

i. Time periods. As necessary or desirable to facilitate the proper administration of the plan and consistent with the requirements of Section 457 of the Internal Revenue Code (IRC), the plan administrator may modify the time periods during which a participating employee or beneficiary is required to make any election under the plan, and the time periods for processing these elections by the plan, including the making or amending of a deferral agreement, the making or amending of investment provider selections, the election of distribution commencement dates or distribution forms.

j. Supplementary information and procedures. Any explanatory brochures, pamphlets, or notices distributed by the plan shall be distributed for information purposes and shall not override any provision of this plan or give any person any claim or right not provided for under this plan. Notwithstanding the foregoing, to the extent that the terms of this plan document authorize the adoption of supplementary guidelines or procedures, any publication announcing such guidelines or procedures may be relied upon by the persons to whom it is distributed, unless and until modified by a subsequent publication, or revocation of the publication by the plan administrator. Any procedural requirement described in any such publication shall be binding, as applicable, to the same extent as if such requirement were set forth in this plan document. In the event any form or other document used in administering this plan, including but not limited to enrollment forms and marketing materials, conflicts with the terms of the plan, the terms of the plan shall prevail.

k. This plan, and any properly adopted amendments, shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors and assignees and on all beneficiaries of the participant.

15.6(3) *Rights of participating employees.*

a. The assets and income of the plan shall be held by the trustee for the exclusive benefit of the participating employee or the participating employee's beneficiary.

b. The rights of a participating employee under this plan shall not be subject to the rights of creditors of the participating employee or any beneficiary and, except as expressly provided herein, shall be exempt from execution, attachment, prior assignment, or any other judicial relief, or order for the benefit of creditors or other third persons.

c. Designation of beneficiary. Upon enrollment, a participating employee must designate a beneficiary or beneficiaries. A participating employee may change the employee's designated beneficiary or beneficiaries at any time thereafter by providing the plan administrator with written notice of the change on the form prescribed by the plan administrator.

d. Neither a participating employee, nor the participating employee's beneficiary, nor any other designee shall have the right, except as expressly provided herein, to commute, sell, assign, transfer, borrow, alienate, use as collateral or otherwise convey the right to receive any payments hereunder which payments and right thereto are expressly declared to be nonassignable and nontransferable.

15.6(4) *Trust provisions.*

a. Trustee. The trustee shall be the director of the Iowa department of personnel.

b. Investment options. The trustee shall adopt various investment options for the investment of deferred amounts by participating employees or their beneficiaries and shall monitor and evaluate the appropriateness of the investment options offered by the plan. The trustee may remove options if it is deemed to be in the best interest of participants or for other good cause as determined by the trustee. Following such adoption or removal of investment options by the trustee, participating employees or their beneficiaries shall be entitled to select from among the available options for investment of their deferred amounts. In the event options are removed, the trustee may require participating employees or their beneficiaries to move balances to an alternative option offered by the plan. If participating employees or their beneficiaries fail to act in response to the written notice, the trustee shall transfer moneys out of the removed option to an alternative option chosen by the trustee (normally placed into a fixed guaranteed account or, if offered as an investment option offered in the plan, a money market fund). By exercising such right to select investment options or by failing to respond to notice to transfer from a removed option where the trustee moves the money on behalf of participating employees or their beneficiaries, participating employees and their beneficiaries agree that none of the plan fiduciaries will be liable for any investment losses or lost investment opportunities that are experienced by participating employees or their beneficiaries in the investment option(s) they select or that are selected for them if they fail to take appropriate action with regard to a removed fund or that may be implemented by the plan administrator in accordance with the plan.

c. Designation of fiduciaries. The trustee, the plan administrator, and the persons they designate to carry out or help carry out their duties or responsibilities are fiduciaries under the plan. Each fiduciary has only those duties or responsibilities specifically assigned to fiduciaries under the plan, contractual relationship, trust or as delegated to fiduciaries by another fiduciary. Each fiduciary may assume that any direction, information or action of another fiduciary is proper and need not inquire into the propriety of any such action, direction or information. No fiduciary will be responsible for the malfeasance, misfeasance or nonfeasance of any other fiduciary, except where the fiduciary participated in such conduct, or knew or should have known of such conduct in the discharge of the fiduciary's duties under the plan and did not take reasonable steps to compel the cofiduciary to redress the wrong.

d. Fiduciary standards.

(1) All fiduciaries shall discharge their duties with respect to the plan and trust solely in the interest of the participating employees and their beneficiaries and in accord with Iowa Code section 633.123. Such duties shall be discharged for the exclusive purpose of providing benefits to the participating employees and beneficiaries and, if determined applicable, defraying expenses of the plan.

(2) The investment providers shall discharge their duties with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims and as defined by applicable Iowa law.

e. Trustee powers and duties. The trustee may exercise all rights or privileges granted by the provisions of the plan and trust and may agree to any alteration, modification or amendment of the plan. The trustee may take any action respecting the plan or the benefits provided under the plan which the trustee deems necessary or advisable. Persons dealing with the trustee shall not be required to inquire into the authority of the trustee with regard to any dealing in connection with the plan. The trustee may employ persons, including attorneys, auditors, investment advisors or agents, even if they are associated with the trustee, to advise or assist, and may act without independent investigation upon their recommendations. Instead of acting personally, the trustee may employ one or more agents to perform any act of administration, whether or not discretionary.

f. Trust exemption. This trust is intended to be exempt from taxation under § 501(a) of the IRC and is intended to comply with § 457(g) of the IRC. The trustee shall be empowered to submit or designate appropriate agents to submit this plan and trust to the IRS for a determination of the eligibility of the plan under IRC § 457, and the exempt status of the trust under IRC § 501(a), if the trustee concludes that such a determination is desirable.

g. Notwithstanding any contrary provision of the plan, in accordance with Section 457(g) of the Internal Revenue Code, all amounts of compensation deferred pursuant to the plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in trust for the exclusive benefit of participants and beneficiaries under the plan. Any trust under the plan shall be established pursuant to a written agreement that constitutes a valid trust under the law of the state of Iowa. All plan assets shall be held under one or more of the following methods:

(1) Compensation deferred under the plan shall be transferred to a trust established under the plan within a period that is not longer than is reasonable for the proper administration of the accounts of participants. To comply with this requirement, compensation deferred under the plan shall be transferred to a trust established under the plan not later than 15 business days after the end of the month in which the compensation would otherwise have been paid to the employee.

(2) Notwithstanding any contrary provision of the plan, including any annuity contract issued under the plan, in accordance with Section 457(g) of the Internal Revenue Code, compensation deferred pursuant to the plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in one or more annuity contracts, as defined in Section 401(g) of such Code, issued by an insurance company qualified to do business in the state where the contract was issued, for the exclusive benefit of participants and beneficiaries under the plan. For this purpose, the term "annuity contract" does not include a life, health or accident, property, casualty, or liability insurance contract. Amounts of compensation deferred under the plan shall be transferred to an annuity contract described in Section 401(f) of the Internal Revenue Code within a period that is not longer than is reasonable for the proper administration of the accounts of participants. To comply with this requirement, amounts of compensation deferred under the plan shall be transferred to a contract described in Section 401(f) of such Code not later than 15 business days after the end of the month in which the compensation would otherwise have been paid to the employee.

(3) Notwithstanding any contrary provision of the plan, in accordance with Section 457(g) of the Internal Revenue Code, compensation deferred pursuant to the plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in one or more custodial accounts for the exclusive benefit of participants and beneficiaries under the plan. For purposes of this paragraph, the custodian of any custodial account created pursuant to the plan must be a bank, as described in Section 408(n) of the Internal Revenue Code, or a person who meets the nonbank trustee requirements of paragraphs (2) to (6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of nonbank trustees.

Amounts of compensation deferred under the plan shall be transferred to a custodial account described in Section 401(f) of the Internal Revenue Code within a period that is not longer than is reasonable for the proper administration of the accounts of participants. To comply with this requirement, amounts of compensation deferred under the plan shall be transferred to a custodial account described in Section 401(f) of such Code not later than 15 business days after the end of the month in which the compensation would otherwise have been paid to the employee.

15.6(5) *Absolute safeguards of the employer, trustee, their employees, and agents.*

a. The trustee and the plan administrator are authorized to resolve any questions of fact necessary to decide the participating employee's rights under this plan. An appeal of a decision of the plan administrator shall be made to the trustee, who shall render a final decision on behalf of the plan.

b. The trustee and the plan administrator are authorized to construe the plan and to resolve any ambiguity in the plan and to apply reasonable and fair procedures for the administration of the plan. An appeal of a decision of the plan administrator shall be made to the trustee, who shall render a final decision on behalf of the plan.

c. The participating employee specifically agrees that the employer, the trustee, the plan administrator, or any other employee or agent of the employer, shall not be liable for any loss sustained by the participating employee or the participating employee's beneficiary for the nonperformance of duties, negligence, or any other misconduct of the above-named persons except that this paragraph shall not excuse malicious or wanton misconduct.

d. The trustee, plan administrator, investment providers, their employees and agents, if in doubt concerning the correctness of their actions in making a payment of a benefit, may suspend the payment until satisfied as to the correctness of the payment or the identity of the person to receive the payment, or until the filing of an administrative appeal under Iowa Code chapter 17A, and thereafter in any state court of competent jurisdiction, a suit in such form as they consider appropriate for a legal determination of the benefits to be paid and the persons to receive them.

e. The employer, the trustee, the plan administrator, their employees and agents are hereby held harmless from all court costs and all claims for the attorneys' fees arising from any action brought by the participating employee, or any beneficiary thereof, under this plan or to enforce their rights under the plan, including any amendments hereof.

f. The investment providers shall not be required to participate in any litigation concerning the plan except upon written demand from the plan administrator or trustee.

15.6(6) *Eligibility.*

a. Initial eligibility. Any nontemporary executive, judicial or legislative branch employee who is regularly scheduled for 20 or more hours of work per week or who has a fixed annual salary is eligible to defer compensation under this rule except employees of the board of regents. An elected official-elect and elected members-elect of the general assembly are also eligible provided deductions meet the requirements set forth in the plan. Final determination on eligibility shall rest with the plan administrator.

b. Eligibility after terminating deferral of compensation. Any employee who terminates the deferral of compensation may choose to reenroll in the plan in accordance with the plan. Final determination on eligibility to reenroll shall rest with the plan administrator.

15.6(7) *Enrollment and termination.*

a. Enrollment. Employees may enroll in the plan at any time. The original account application form and the state of Iowa's required enrollment forms shall be submitted to the plan administrator for approval. An investment provider account shall become effective upon receipt of the first deduction or, where applicable, upon the transfer of assets from another investment provider. In all instances, eligible employees must enter into an agreement to defer compensation prior to the beginning of the month in which the agreement shall take effect. Employees are responsible for timely submission of payroll documents to initiate salary deductions. Enrollment is permitted for elected officials-elect and elected members-elect of the general assembly according to these rules.

b. Availability of forms. It is the responsibility of each employee interested in participating in the program to obtain the necessary forms from the employer or from the investment providers. It is the responsibility of each agency to inform its employees as to where and how they may obtain the necessary forms. The forms shall be prescribed by the plan administrator, and agencies shall be advised as to their availability.

c. Termination of participation. A participating employee may terminate participation in the plan provided notification is received by the plan administrator at least 15 days prior to the employee's next monthly deduction. Termination of plan participation does not provide for the disbursement of funds unless done in accordance with the distribution requirements of the plan.

15.6(8) *Communications.*

a. All enrollments, elections, designations, applications and other communications by or from an employee, participant, beneficiary, or legal representative of any such person regarding that person's rights under the plan shall be made in the form and manner established by the plan administrator and shall be deemed to have been made and delivered only upon actual receipt by the person designated to receive such communication. The employer or the plan shall not be required to give effect to any such communication that is not made on the prescribed form and in the prescribed manner and that does not contain all information called for on the prescribed form.

b. All notices, statements, reports, and other communications from the plan to any employee, participant, beneficiary, or legal representative of any such person shall be deemed to have been duly given when delivered to, or when mailed by first-class mail to, such person at that person's last mailing address appearing on the plan records.

15.6(9) *Deductions from earnings.*

a. When deducted. Each participating employee shall have the option as to whether the entire monthly amount of deferred compensation will be deducted from the first paycheck of the month or the second paycheck of the month, or will be equally divided between the first and second paychecks of the month. If the monthly deferral cannot be divided into two equal payments, the third option is not available. Deductions will not be taken from the third paycheck of a month. Deductions may be allocated to more than one active investment provider. A participating employee may allocate deductions to one inactive investment provider and one or more active investment providers.

b. Deferral amount changes. Participating employees may increase or decrease their monthly deferral amount as frequently as provided for by procedures established by the plan administrator to ensure the efficient administration of the plan.

c. Maximum deferral limits. Participating employees' deferrals may not exceed the lesser of the maximum limitation or 33 1/3 percent of their includable compensation as defined under IRC Section 457. In practice, it may be considered that participating employees' deferrals may not exceed 25 percent of the amount of their annual income subject to federal income tax withholding less contributions to IPERS or any other applicable retirement program and certain taxable compensation excluded from wages under the IRC, determined without taking into account contributions made to this plan. The maximum limitation is $7,500, adjusted for the calendar year to reflect increases in cost of living in accordance with Sections 457(e)(15) and 415(d) of the Internal Revenue Code.

d. Minimum amount deferred. The minimum amount of deferred compensation to be deducted from the earnings of a participating employee during any month shall be $25.

e. Method of payment. Deferred amounts shall be forwarded to the investment providers by issuance of one warrant or electronic remittance following each pay period, regardless of the number of individual accounts, accompanied by a listing of participant accounts and the amounts to be credited to each participant account. Deferred amounts will be remitted in a timely manner consistent with the requirements of IRS regulations. However, no deferrals or remittances are made when a third payday occurs in a month. Investment providers must minimize crediting errors and provide timely and accurate credit resolution.

f. The employer shall cause all deferrals and transfers to be invested as soon as practicable after such amounts are withheld from the participating employee's salary or wages or are available from the transferor plan, as applicable.

g. Deferred compensation or tax-sheltered annuity participation—maximum contribution. Employees who, under the laws of the state of Iowa, are eligible for both deferred compensation and tax-sheltered annuities shall be allowed to participate in one or the other of the programs, but not both. If, in the same calendar year, an eligible participating employee changes from the deferred compensation plan to a tax-sheltered annuity plan or vice versa, the maximum deferral for that calendar year for both plans combined may not exceed the maximum permitted under IRC § 402(g), 403(b), 415, or 457, whichever is applicable based upon the employee's participation.

15.6(10) *Contribution catch-up.*

a. Contribution catch-up. A participating employee may elect to catch up contributions during the employee's last three tax years before reaching the year of the employee's normal retirement age. This catch-up provision, which when added to the maximum amount that is allowed, shall not exceed the lesser of one of the following:

(1) Fifteen thousand dollars, or such larger amount permitted under IRC Section 457, as determined by IRC 415(d) and the U.S. Treasury regulations thereunder, or

(2) The employee's maximum deferral limit plus the unused portion of any prior plan year's previous deferral limit for which the employee was eligible to participate in this or any other eligible deferred compensation plan.

b. If the participating employee does not utilize this provision during the first of the three catch-up years, the "lost" catch-up amount shall not be added to either the second or third year of the catch-up period. If the participating employee does not utilize this provision during the first two years of the catch-up period, the "lost" catch-up amount shall not be added to the third year of the catch-up period. The amount to be deferred shall remain constant from the previous calendar year unless a change request is submitted.

c. Participating employees may designate as their normal retirement age the age that will be attained in any year that is not earlier than the earliest year in which the employee will be eligible to retire without actuarial or similar reduction under IPERS or another applicable retirement system and that is not later than the plan's normal retirement age. Once a participating employee has utilized the catch-up provision or a comparable provision of another eligible deferred compensation plan, that participating employee's normal retirement age may not thereafter be changed.

15.6(11) *Tax status.*

a. FICA and IPERS. The deferred amount elected in the authorization to deduct form shall be included in the participating employee's gross wages for purposes of determining FICA withholding, IPERS, peace officers' and judicial retirement contributions, as applicable, until the maximum taxable wages established by law have been reached.

b. Federal and state income taxes. The amount of earned compensation deferred under the agreement is exempt from federal and state income taxes until such time as the funds are paid or made available as provided in IRC Section 457.

15.6(12) *Disposition of funds.*

a. Termination of employment. A participating employee who has terminated employment with the employer (including retirement) may request to defer distribution of funds or withdraw funds under any option available under the plan and the chosen investment according to the following:

(1) The participating employee shall elect, within 30 calendar days after termination, a distribution date on a form approved by the plan administrator.

(2) The distribution date shall be no later than the mandatory commencement date, which is April 1 of the calendar year following the later of:

1. The calendar year in which the participating employee attains age 70½, or
2. The calendar year in which the participating employee terminates employment with the employer.

(3) The participating employee shall indicate on the appropriate form when funds are to be paid. If the participating employee wishes to begin receiving disbursements within six months, then the distribution date and the distribution option must be specified.

(4) Where allowable under the plan, if the distribution election is not made by the later of 30 days following termination or 30 days following attainment of age 70, the participating employee shall be deemed to have elected a distribution date 180 days subsequent to termination. If the participating employee does not exercise the right to one additional election to further delay the distribution of funds during this year, the funds will be distributed to the participating employee in a lump sum within a reasonable time after the expiration of this period.

(5) If a participant has elected, in accordance with the plan, to defer the commencement of distributions beyond the first permissible payout date, then the participant may make an additional election to further defer the commencement of distributions, provided that the election is filed before distributions actually begin and the later commencement date meets the required distribution commencement date provisions of Sections 401(a)(9) and 457(d)(2) of the IRC. A participant may not make more than one such additional deferral election after the first permissible payout date.

For purposes of the preceding paragraph, the "first permissible payout date" is the earliest date on which the plan permits payments to begin after separation from service, disregarding payments to a participant who has an unforeseeable emergency or attains age 70½, or under the in-service distribution provisions of the plan.

(6) When a participating employee elects to start receiving benefits after termination, the amount withdrawn must meet the following criteria consistent with the requirements of IRC § 457:

1. Be substantially nonincreasing; and
2. Meet minimum distribution requirements.

(7) A participating employee may elect to have an account distributed in one of the following methods, subject to the specific terms of the chosen investment option:

1. A single lump sum payment;
2. Substantially nonincreasing installment payments for a period of years (payable on an annual, semiannual, quarterly, or monthly basis) which extends no longer than the life expectancy of the participating employee or such longer period as permitted;
3. Partial lump sum payment of a designated amount, with the balance payable in substantially nonincreasing installment payments for a period of years, as described above;
4. Annuity payments (payable on an annual, quarterly, or monthly basis) for the participating employee's lifetime, or for the lifetimes of the participating employee and the employee's beneficiary if permitted;
5. Such other form of installment payments as may be approved by the plan administrator consistent with the limitations of the plan, the investment provider, and the applicable laws and regulations governing such choice. No distribution method may be made or changed after the commencement date for such distribution method.

(8) If a participating employee works beyond the normal retirement age or the plan's designated normal retirement age, the participating employee shall notify the plan administrator on the appropriate forms of the selected retirement option within 30 days after termination of employment.

(9) If a participating employee is rehired by an employer and is eligible to participate in the deferred compensation plan, the employee may, within 30 days following the employee's new hire date, notify the plan administrator in writing of the intent to void the previous election to delay receipt of the funds. This option is not available if the participating employee entered into a settlement option prior to the rehire date.

b. Unforeseeable emergency. A participating employee may request that the plan administrator allow the withdrawal of some or all of the funds held in the participating employee's account based on an unforeseeable emergency. Forms must be completed and returned to the plan administrator for review in order to consider a withdrawal request. The plan administrator shall determine whether the participating employee's request meets the definition of an unforeseeable emergency as provided for in U.S. Treasury Regulation 1.457-2(h). In addition to being extraordinary and unforeseeable, an unforeseeable emergency must not be reimbursable:

(1) By insurance or otherwise;

(2) By liquidation of the participating employee's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or

(3) By cessation of deferrals under the plan.

Upon the plan administrator's approval of an unforeseeable emergency distribution, the participating employee will be required to stop current deferrals for a period of no less than six months.

A participating employee who disagrees with the initial denial of a request to withdraw funds on the basis of an unforeseeable emergency may request that the director reconsider the request by submitting additional written evidence of qualification or reasons why the request for withdrawal of funds from the plan should be approved.

c. Voluntary in-service distribution. A participant who is an active employee of an eligible employer shall receive a distribution of the total amount payable to the participant under the plan if the following requirements are met:

(1) The total amount payable to the participant under the plan does not exceed $5,000 (or the dollar limit under Section 411(a)(11) of the Internal Revenue Code, if greater);

(2) The participant has not previously received an in-service distribution of the total amount payable to the participant under the plan;

(3) No amount has been deferred under the plan with respect to the participant during the two-year period ending on the date of the in-service distribution; and

(4) The participant elects to receive the distribution.

The plan administrator may also elect to distribute the accumulated account value of a participant's account without consent, if the above criteria are met.

This provision is available only once in the lifetime of the participating employee. If funds are distributed under this provision, the participating employee is not eligible under the plan to utilize this provision at any other time in the future.

d. Plan-to-plan transfers.

(1) Participating employees who have accepted employment with a new employer that offers an eligible plan as defined in U.S. Treasury Regulation § 1.457-2(c)(1) may transfer their account values to their new employer's plan if that plan provides for the acceptance of the account and the funds are placed in a like plan in accordance with IRC § 457.

(2) Transfers from other eligible deferred compensation plans as defined in U.S. Treasury Regulation § 1.457-2(c)(1) to this plan will be accepted at the participating employee's request if such transfers are in cash or covered under an investment option currently offered under the plan. Any such transferred amount shall not be subject to the yearly deferral limitations of the plan, provided, however, that the actual amount deferred during the calendar year under both plans shall be taken into account in calculating the deferral limitation for that year. For purposes of determining the limitation set forth in the catch-up provision of the plan, years of eligibility to participate in the prior plan and deferrals under that plan shall be considered.

e. Transfers under domestic relations orders.

(1) To the extent required under a final judgment, decree, or order (including approval of a property settlement agreement) made pursuant to a state domestic relations law, any portion of a participating employee's account may be paid or set aside for payment to a spouse, former spouse, or child of the participating employee. The employer will determine whether the judgment, decree, or order is valid and binding on the plan, and whether it is issued by a court or agency with jurisdiction over the plan. The judgment, decree or order must specify which of the participating employee's accounts are to be paid or set aside, the valuation date of the accounts and, to the extent possible, the exact value of the accounts. Where necessary to carry out the terms of such an order, a separate account shall be established with respect to the spouse, former spouse, or child who shall be entitled to choose investment providers in the same manner as the participating employee. Any amount so set aside for a spouse, former spouse, or child shall be paid out in a lump sum at the earliest date that benefits may be paid to the participating employee, unless the judgment, decree, or order directs a different form of payment. Unless otherwise subsequently suspended or altered by federal law, all applicable taxes shall be withheld and paid from this lump sum distribution. However, the distribution and all applicable taxes shall be reported as if received by and paid by the participating employee. This shall not be construed to authorize any amount to be distributed under the plan at a time or in a form that is not permitted under Section 457 of the Internal Revenue Code.

(2) A right to receive benefits under the plan shall be reduced to the extent that any portion of a participating employee's account has been paid or set aside for payment to a spouse, former spouse, or child pursuant to these rules or to the extent that the employer or the plan is otherwise subject to a binding judgment, decree, or order for the attachment, garnishment, or execution of any portion of any account or of any distributions therefrom. The participating employee shall be deemed to have released the employer and the plan from any claim with respect to such amounts in any case in which:

1. The employer, the plan, or any plan representative has been served with legal process or otherwise joined in a proceeding relating to such amounts,

2. The participating employee has been notified of the pendency of such proceeding in the manner prescribed by the law of the jurisdiction in which the proceeding is pending for service of process or by mail from the employer or a plan representative to the participating employee's last-known mailing address, and

3. The participating employee fails to obtain an order of the court in the proceeding relieving the employer and the plan from the obligation to comply with the judgment, decree, or order.

(3) Neither the employer nor any plan representative shall be obligated to incur any cost to defend against or set aside any judgment, decree, or order relating to the division, attachment, garnishment, or execution of the participating employee's account or of any distribution therefrom. Notwithstanding the foregoing, if the employer, the plan, or a plan representative is joined in any such proceeding, a plan representative shall take such steps as it deems necessary and appropriate to protect the terms of the plan.

f. Method of payment.

(1) Payments will not be initiated by the investment providers or the plan administrator until at least 31 calendar days after termination of employment. Investment providers will, upon written instruction from the plan administrator, make payments directly to the participating employee or to the participating employee's beneficiary, in satisfaction of the employer's continuing obligation under the plan. This shall not, however, give the participating employee or beneficiary any right to demand payment from the employer or the investment provider(s).

(2) Benefits paid to the participating employee shall be paid in accordance with the payment options elected by the participating employee. The form of payment and the settlement options available shall be as provided by each of the investment providers, consistent with the limitations of the plan. Amounts payable with respect to the participating employee will be paid consistent with the times specified by applicable U.S. Treasury regulations which are not later than the time determined under IRC § 401(a)(9) relating to incidental benefits.

g. Incompetence of payee. If the plan administrator shall find that any person to whom any amount is payable under the plan is unable to care for that person's affairs, is a minor, or has died, any payment due the person, or that person's estate, may be paid to the person's spouse, a child, a relative, or any other person maintaining or having custody of such person, unless a prior claim therefor has been made by a duly appointed legal representative. Any such payment shall be a complete discharge of all liability under the plan thereof.

h. Federal and state withholding taxes. It shall be the responsibility of the investment providers, when making payment directly to the participating employee or the participating employee's beneficiary, to withhold the required federal and state income taxes, to remit them to the proper government agency on a timely basis, and to file all necessary reports as required by federal and state regulations, including W-2s.

15.6(13) *Death of a participant.*

a. When a participant dies, the following information shall be provided by the participant's beneficiary to the plan administrator: participating employee's name, social security number and a certified copy of the death certificate. Upon receipt of the above information, the plan administrator shall initiate procedures so that the proceeds being held in the plan may be distributed as provided in the agreement, unless an irrevocable election is made by the beneficiary to defer benefits to no later than the deceased participant's normal retirement date or in accordance with the participant's irrevocable election on file with the plan administrator.

b. After the death of a participating employee, the participating employee's beneficiary shall have the right to amend the participating employee's or the beneficiary's own investment specification by signing and filing with the plan administrator a written amendment on a form and in the procedural manner approved by the plan administrator. Any change in an investment specification by a beneficiary shall be effective on a date consistent with these rules and the specifications of the investment provider. The right of a beneficiary to amend an investment specification shall terminate on the last day available for an election concerning the form of payment.

c. Payments to a beneficiary.

(1) If a participating employee dies after distribution of the account has begun, distribution shall continue to be paid to the beneficiary at the same or greater rate as under the method of distribution in effect at the time of the participating employee's death.

(2) If a participating employee dies before payments have begun, payments to a beneficiary must comply with one of the following requirements:

1. The entire account value must be distributed within five years following the participating employee's death; or

2. Distribution of the account must begin on or before December 31 of the calendar year following the participating employee's death and the entire account must be paid over a period not extending beyond 15 years (or if the beneficiary is the participating employee's spouse, the life expectancy of the beneficiary); or

3. If the beneficiary is the participating employee's surviving spouse, distribution of the account may be delayed until December 31 of the calendar year in which the participating employee would have attained age 70½.

(3) If distributions have not begun, the beneficiary shall choose a distribution commencement date by filing an election with the plan administrator within 120 days following the participating employee's death. This election shall not be changed once it has been made. If no election is made within 120 days following the participating employee's death, the distribution commencement date will be December 31 of the calendar year following the participating employee's death and shall be completed according to the applicable time period specified in subparagraph (2) above.

(4) The beneficiary shall elect the form of payment based upon the options then available. Distributions to a beneficiary shall be completed within the applicable time period specified in subparagraph (2) above. Such election is irrevocable after the thirtieth day preceding the date on which benefits will commence.

(5) Failure to file an election as to the form of payment will result in the plan administrator's making a lump sum payment to the beneficiary according to subparagraph (3) above.

15.6(14) *Investment providers.*

a. Participation. The investment providers under the plan are authorized to offer new accounts and investment products to employees only if awarded a service agreement through a competitive bid process. A list of active investment providers shall be provided, upon request, to any employee or other interested party. Inactive investment providers shall participate to the extent necessary to fully discharge their duties under the applicable federal and state laws and regulations, the plan, their service agreements or contracts with the employer, and their investment accounts or contracts with participating employees.

b. Investment products. Investment products shall be limited to those that have been selected by the plan administrator. No new accounts shall be available to employees for life insurance under the plan.

c. Reports and consolidated statements. The investment providers will provide various reports to the plan administrator as well as consolidated statements, newsletters, and performance reports to participants as specified in their service agreements.

d. Dividends and interest. The only dividend or interest options available on policies or funds are those where the dividend or interest remains within the account to increase the value of the account.

e. Quality standards. An investment provider that issues individual or group annuity contracts, or that has issued life insurance policies, must have:

(1) A minimum credit rating of at least "A-" from the A.M. Best Corporation financial strength rating system, or equivalent ratings from two other major, recognized ratings services, and

(2) A minimum number of years in existence greater than 12.

f. In lieu of (1) and (2) above, companies that provide mutual funds shall be selected by the plan administrator using a selection process that includes quality standard requirements as set forth in a competitive bid process and in the investment provider's service agreement.

g. Minimum contract requirements. In addition to meeting selection requirements, an investment provider must meet and maintain the requirements set forth in its contract or service agreement with the state of Iowa.

h. Removal from participation. Failure to comply with the provisions of these rules, the investment provider contract or service agreement with the employer, or the terms and conditions of the investment provider account with the participating employee, may result in termination of an investment provider contract or service agreement, and all rights therein shall be exercised by the employer.

15.6(15) *Marketing and education.*

a. Orientation and information meetings. Employers may hold orientation and information meetings for the benefit of their employees during normal work hours using materials developed and approved by the plan administrator. Active investment providers may make presentations upon approval of individual agency or department authorities during non-work hours. There shall be no solicitation of employees by investment providers at an employee's workplace during the employee's working hours, except as authorized in writing by the plan administrator.

b. General requirements for solicitation.

(1) An active investment provider may solicit business from participants and employees through representatives, the mail, or direct presentations.

(2) Active investment providers and representatives may solicit business at a state agency's work site only with the prior permission of the agency director or other appropriate authority.

(3) All investment providers or representatives may not conduct any activity with respect to a registered investment option unless the appropriate license has been obtained.

(4) An investment provider or representative may not make a representation about an investment option that is contrary to any attribute of the option or that is misleading with respect to the option.

(5) An investment provider or representative may not state, represent, or imply that its investment options are endorsed or recommended by the plan administrator, a state agency, the state of Iowa, or an employee of the foregoing.

(6) An investment provider or representative may not state, represent, or imply that its investment option is the only option available under the plan.

c. Disclosure.

(1) Enrollment. When soliciting business for an investment product, an active investment provider or representative shall provide each participating employee or eligible employee with a copy of the approved disclosure for that option. If a variable annuity product has several alternative investment choices, the participant must receive disclosures concerning all investment choices. An investment provider is responsible for any violations of these rules by a representative who is marketing the investment provider's investment options. An active investment provider shall notify the plan administrator in writing if the investment provider will be marketing its investment options through representatives. The notification must contain a complete identification of the representatives who will be marketing the options. Every representative and agent that enrolls eligible employees in the plan and is authorized by the investment provider to sign plan forms must be included on this notification.

(2) Disbursement methods and account values. When discussing distribution methods for an investment option, investment providers or representatives shall disclose to each participating employee or eligible employee all potential distribution methods and the potential income derived from each method for that option. An investment provider is responsible for any violations of these rules by a representative who is marketing the investment provider's investment options.

d. Approval of a disclosure form.

(1) An investment provider shall complete and submit to the plan administrator a disclosure form for each approved investment product. If a variable annuity product has several investment choices, the plan administrator must receive all disclosures related to those investment choices. An investment provider shall complete a disclosure on each investment product that has participating employee funds (including those no longer offered).

(2) If changes occur during the plan year, any changes must be submitted to the plan administrator for approval prior to their implementation. Disclosure forms will be updated quarterly. Even if no changes occur, an investment provider shall resubmit its disclosure form to the plan administrator for approval every year.

(3) If an investment provider or representative materially misstates a required disclosure or fails to provide disclosure, the plan administrator may sanction the investment provider or bind the investment provider to the disclosure as stated on the form.

e. Confidentiality. The plan administrator may provide any information that can be made available under the Iowa department of personnel's rules to all active investment providers. Notwithstanding any rule of the Iowa department of personnel to the contrary, the plan administrator shall make available to all active investment providers the names and home addresses of all state employees. The plan administrator may assess reasonable costs to the active investment providers to defray the expense of producing any requested information. All information obtained under the plan shall be confidential and used exclusively for purposes relating to the plan and as expressly contemplated by the service agreement or contract entered into by the investment provider.

f. Number of companies. Only investment providers who are selected through a competitive bid process, who are subsequently awarded a service agreement, and who are authorized to do business in the state of Iowa may sell annuities, mutual funds or other approved products under the plan, and then only if they agree to the terms, conditions, and provisions of the service agreement. At any given time, no more than 11 investment providers may be authorized to open new accounts for participating employees. Beginning January 1, 1999, during the term of a service agreement with the employer, any investment provider that does not enroll an average of 25 new participating employees per plan year will not be eligible for renewal as an active investment provider upon expiration of a service agreement except through a competitive bid process.

g. Company changes/transfers. If a participating employee wishes to change deferrals to another active investment provider within the plan, the participating employee shall submit forms to the plan administrator. The funds accumulated under the prior investment option may be transferred in total or in accordance with such other options offered by the active investment providers, according to the participating employee's direction to the plan administrator, to the new investment option. The appropriate forms shall be provided to the plan administrator prior to requesting the surrender or partial withdrawal of an existing account. A participating employee may request at any time during the calendar year to transfer accumulated funds from an investment provider to another active investment provider offered under the plan. A participating employee may only transfer an account to an investment provider that is not active if the participating employee already has an established account with the investment provider and the transfer does not necessitate the creation of a new account. A participating employee may change investment providers at any time during the calendar year. Surrender charges pursuant to individual participant investment contracts may apply. In the event of a transfer, participating employees who have made irrevocable elections as required under the plan will be required to maintain this election under the new investment provider.

15.6(16) *Investment of deferred amounts.*

a. The deferred amounts shall be delivered by the employer to investment providers or their designated agents for investment as designated by the participating employee or beneficiary.

b. Investment providers shall use the participating employee's or beneficiary's investment specifications to determine the value of the deferred account maintained with respect to the participating employee and shall invest the deferred amounts according to such specifications.

c. All interest, dividends, charges for premiums and administrative expenses, as well as changes in value due to market fluctuations applicable to each participating employee's account, shall be credited or debited to the account as they occur.

d. All assets of the plan, including all deferred amounts, property, and rights purchased with deferred amounts, as well as all income attributable to such deferred amounts, property or rights, shall be held in a trust, custodial account, or an annuity contract, in accordance with the provisions of the plan, and shall be held (until made available to the participating employee or beneficiary) for the exclusive benefit of the participating employees and their beneficiaries.

15.6(17) *Investment option removal/replacement.* The plan administrator may determine that an investment option offered under the plan is no longer acceptable for inclusion in the program. If the plan administrator decides to remove an investment option from the plan as the result of the option's failure to meet the established evaluation criteria and according to the recommendations of consultants or advisors, the option shall be removed or phased out of the plan. Employees newly enrolling in the plan shall be informed in writing that the terminating investment option does not meet the evaluation criteria and that this investment option is not open to new enrollments.

a. Any participating employees already deferring to the terminating investment option shall be informed in writing that they need to redirect future deferrals from this option to an alternative investment option offered under the plan by notifying the plan administrator, unless otherwise directed, of their new investment choice.

b. At the end of a sufficient period, and with sufficient notice of not less than 45 days to participating employees, the plan administrator shall instruct an investment provider to automatically redirect any participating employee's deferrals that have not been redirected to an alternative investment option from the terminated option into another investment option offered by the plan. Existing participating employee account balances shall be allowed to remain in the terminating investment option during this period.

c. Participating employees may subsequently be directed to transfer existing balances from the terminating option to another investment option offered under the plan. If any participating employee has failed to move a remaining account balance from the terminated investment option, the plan administrator shall instruct an investment provider to automatically move that participating employee's account balance into another designated alternative investment option offered under the plan.

d. At any time during this process, the plan administrator may reexamine the performance of the terminating investment option and the recommendations of consultants and advisors to determine if the investment option's continued plan participation is justified.

15.6(18) *Demutualization of companies.*

a. An investment provider that is a mutual company and that provides any annuity product or life insurance product held under the plan shall provide the plan administrator with a ballot(s) for official vote registration. The ballot(s) shall be completed and returned to the company according to the specified deadline in the instructions. The ballot(s) shall include the owner's name, policy numbers of affected contracts, name of annuitant or insured, number of shares anticipated, and the control number for the group of shares.

b. The company shall provide the plan administrator with a policyholder booklet, as well as instructions and guide information, prior to or in conjunction with the delivery of the ballot(s). Notices of progress, time frames and meetings will also be provided to the plan administrator as such information becomes available.

c. Compensation will be provided in cash according to the terms of the demutualization plan. In the event that stocks are issued in lieu of cash, the company shall issue all certificates to the employer on behalf of the affected participants and shall provide a listing which includes participants' names, social security numbers, policy numbers, and number of shares pro rata. The certification(s) will be delivered to the treasurer of the state of Iowa by the plan administrator for safekeeping within five workdays following receipt. The certificate(s) will be retrieved from the treasurer of the state of Iowa when an arrangement has been made with a stockbroker for the sale of the stock.

d. An arrangement will be entered into between the plan administrator and a stockbroker as soon as administratively possible in order to liquidate the stock for cash. The broker shall retain commission fees according to the arrangement entered into from the value obtained at the time of sale. The employer will not realize a tax liability nor will the participating employees.

e. The proceeds of the sale of the stock, less the broker commission, shall be made payable to the company. Cash will be immediately credited to the participating employee's accounts by the company. The company shall credit each participating employee's accounts pro rata based on the allotted shares per contract, and the plan administrator will be provided with a listing of the dollar amount credited to each participating employee's accounts. The company will credit the accounts based on the printout provided to the plan administrator. A statement of this transaction will also be provided by the company to participating employees at their home addresses upon completion of crediting of the accounts. The funds will be remitted to the company on a separate warrant and day from normal contributions. The company will report the investment return credit to the plan administrator in a specified format and show the credit under the earnings column.

f. In the event that dividends are issued prior to the sale of the stock, the dividends will be returned to the company and the company will credit each eligible account with the correct dividend based on the pro-rata shares. The company will also provide a statement to the participating employees at their home addresses which shows the credit of the dividend. The plan administrator shall be provided with a printout which includes a participating employee's name, social security number, policy number, and dollars credited.

581—15.7(19A) Dependent care. The director administers the dependent care program for employees of the state of Iowa. The plan is permitted under I.R.C. Section 125. The plan is also a dependent care assistance plan under I.R.C. Section 129. Administration of the plan shall comply with all applicable federal regulations and the Summary Plan Document. For purposes of this rule, the plan year is a calendar year.

15.7(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the dependent care program. Temporary employees are not eligible to participate in this program.

15.7(2) *Enrollment.* An open enrollment period, as designated by the director, shall be held for employees who wish to participate in the plan. New employees may enroll within 30 calendar days following their date of hire. Employees also may enroll or change their existing dependent care deduction amounts during the plan year, provided they have a qualifying change in family status as defined in the Summary Plan Document. To continue participation, employees shall reenroll each year during the open enrollment period.

15.7(3) *Termination of participation in the plan.* An employee may terminate participation in the plan provided the employee has a qualifying change in family status as defined in the Summary Plan Document. Employees who have terminated state employment and are later rehired within the same plan year cannot reenroll in the dependent care program until the subsequent plan year.

581—15.8(19A) Premium conversion plan (pretax program). The director administers the premium conversion plan for employees of the state of Iowa. The plan is permitted under I.R.C. Section 125. Pursuant to I.R.C. Section 105, the plan is also an insured health care plan to the extent that participants use salary reduction to pay for health or dental insurance premiums. In accordance with I.R.C. Section 79, the plan is also a group-term life insurance plan to the extent that salary reduction is used for life insurance premiums. Administration of the plan shall comply with all federal regulations and the Summary Plan Document. For purposes of this rule, the plan year is August 1 to July 31 of each year.

15.8(1) *Employee eligibility.* All nontemporary employees who work at least 1040 hours per calendar year are eligible to participate in the pretax conversion plan. Temporary employees are not eligible to participate in the plan.

15.8(2) *Enrollment.* An open enrollment period, as designated by the director, shall be held for employees who wish to make changes in their current pretax status. New employees will automatically be enrolled in the plan after satisfying any waiting period requirements for group insurance unless a change form is submitted. Employees also may change their existing pretax status during the plan year if they have a qualifying change in family status as defined in the Summary Plan Document.

15.8(3) *Termination of participation in the plan.* An employee may terminate participation in the plan during an open enrollment period. Otherwise, an employee may terminate participation if the employee has a qualifying change in family status as defined in the Summary Plan Document. Employees who have terminated state employment and are later rehired within the same plan year cannot reenroll in the pretax conversion plan until the subsequent plan year.

581—15.9(19A) Interviewing and moving expense reimbursement.

15.9(1) *Interviewing expenses.* If approved by the appointing authority, a person who interviews for state employment shall be reimbursed for expenses incurred in order to interview at the same rate at which an employee would be reimbursed for expenses incurred during the performance of state business.

15.9(2) *Moving expenses for reassigned employees.* A state employee who is reassigned or transferred at the direction of the appointing authority shall be reimbursed for moving and related expenses in accordance with the policies of the director or the applicable collective bargaining agreement. Eligibility for payment shall occur when all of the following conditions exist:

a. The employee is reassigned at the direction of the appointing authority;

b. The reassignment constitutes a permanent change in duty station beyond 25 miles;

c. The reassignment results in the employee changing the place of residence in order to be living within 25 miles of the new duty station, unless prior approval otherwise has been obtained from the director; and

d. The reassignment is not primarily for the benefit of the employee.

15.9(3) *Moving expenses for newly hired employees.* If approved by the appointing authority, a person newly hired may be reimbursed for moving and related expenses at the same rates used for the reimbursement of a current employee who has been reassigned or transferred. Reimbursement shall not occur until the employee is on the payroll.

15.9(4) *Repayment.* As a condition of receiving reimbursement for moving expenses, the recipient must sign an agreement to continue employment with the appointing authority for a period following the date of receipt of reimbursement that is deemed by the appointing authority to be commensurate with the amount of reimbursement received. In the event that the recipient leaves the department of the appointing authority for any reason, the recipient will repay to the appointing authority a proportionate fraction of the amount received for each month remaining in the period provided for in the agreement. If the recipient continues employment with the state, then the repayment will be subject to a repayment schedule approved by the director. If the recipient leaves state government, then the repayment will be recouped out of the final paycheck. Recoupment must be coordinated with the department of revenue and finance to ensure proper tax reporting.

581—15.10(19A) Education financial assistance. Education financial assistance may be granted for the purpose of assisting employees in developing skills that will improve their ability to perform job responsibilities. Assistance may be in the form of direct payment to the organization or institution, or by reimbursement to the employee as provided for in these rules.

15.10(1) *Employee eligibility.* Any nontemporary employee may be considered for education financial assistance.

15.10(2) *Workshop, seminar, or conference attendance.* The appointing authority may approve education financial assistance for an employee attending a workshop, seminar, or conference conducted by a professional, educational, or governmental organization or institution when attendance by the employee would not require a reduction in job responsibilities.

a. Assistance may be approved for meeting continuing education requirements when necessary to maintain a professional registration, certification, or license related to the duties and responsibilities of the employee's position.

b. Payment of registration fees and other costs, such as lodging, meals, and travel shall be in accordance with the policies and procedures of the department of revenue and finance.

c. If attendance is outside the state of Iowa, travel must first be authorized by the executive council, per Iowa Code section 421.38(2).

15.10(3) *Educational institution coursework.* Education financial assistance to an employee taking academic courses at an educational institution, with or without educational leave, shall require the preapproval of the appointing authority and the director. Requests for reimbursement shall be on forms prescribed by the director.

a. An employee may take academic courses at any accredited educational institution (university, college, area community college) within the state. Attendance at an out-of-state institution may be approved provided there are geographical or educational considerations which make attendance within the state impractical.

b. Reimbursement requests shall be made to the director prior to the employee taking the courses. If the director does not approve the request, the employee shall not be reimbursed.

c. Reimbursement may be approved for courses taken to meet continuing education requirements when necessary to maintain a professional registration, certification, or license when the courses relate to the duties and responsibilities of the employee's position.

d. An employee receiving other financial assistance, such as scholarship aid or veterans administration assistance, shall be eligible to receive education financial assistance only to the extent that the total of all methods of reimbursement does not exceed 100 percent of the payment of expenses.

e. In order to be reimbursed, the employee's department shall submit to the department of revenue and finance the employee's original paid receipt from the educational institution, the approved education financial assistance form, and proof of the employee's successful completion of the courses as follows:

(1) Undergraduate courses shall require at least a "C-" grade.

(2) Graduate courses shall require at least a "B-" grade.

(3) Successful completion of vocational or correspondence courses or continuing education courses shall require an official certificate, diploma or notice.

15.10(4) *Repayment.* As a condition of receiving reimbursement for education expenses, the recipient must sign an agreement to continue employment with the appointing authority for a period following the date of receipt of reimbursement that is deemed by the appointing authority to be commensurate with the amount of reimbursement received. In the event that the recipient leaves the department of the appointing authority for any reason, the recipient will repay to the appointing authority an appropriate fraction of the amount received for each month remaining in the period provided for in the agreement. If the recipient continues employment with the state, then the repayment will be subject to a repayment schedule approved by the director. If the recipient leaves state government, then the repayment will be recouped out of the final paycheck. Recoupment must be coordinated with the department of revenue and finance to ensure proper tax reporting.

15.10(5) *Annual report.* The appointing authority shall report to the director and legislative council, not later than October 1 of each year, the direct and indirect costs to the department for education financial assistance granted to employees during the preceding fiscal year in a manner prescribed by the director.

581—15.11(19A) Particular contracts governing. Where provisions of collective bargaining agreements differ from the provisions of this chapter, the provisions of the collective bargaining agreement shall prevail for employees covered by the collective bargaining agreements.

581—15.12(19A) Tax-sheltered annuities (TSA).

15.12(1) *Administration.* The director is authorized by Iowa Code section 19A.30 to administer a tax-sheltered annuity program for eligible employees.

15.12(2) *Definitions.* The following definitions shall apply when used in this rule:

"Company" means any life insurance company or mutual fund provider that issues a policy under the tax-sheltered annuity plan authorized under Iowa Code section 19A.30.

"Employee" means a full-time or part-time nontemporary employee of the state of Iowa, including employees of the board of regents administrative staff on the centralized payroll system.

"Employer" means the state of Iowa.

"Normal retirement age" means 70½ years of age as defined by Internal Revenue Code (IRC) Section 403(b)(10).

"Participating employee" means an employee participating in the plan.

"Plan" means the tax-sheltered annuity plan authorized in Iowa Code section 19A.30.

"Plan administrator" means the designee of the director who is authorized to administer the tax-sheltered annuity plan.

"Plan year" means a calendar year.

"Policy" means any retirement annuity, variable annuity, family of mutual funds or combination thereof provided by Internal Revenue Code Section 403(b) and Iowa Code section 19A.30.

"Salary reduction agreement" means the tax-sheltered annuity agreement signed by the participating employee and employer.

15.12(3) *Eligibility.*

a. Initial eligibility. Any full-time or part-time nontemporary employee who is regularly scheduled to work for 20 or more hours per week and who works for the department of education or the board of regents administrative office is eligible to defer compensation under this rule. Final determination on eligibility shall rest with the plan administrator.

b. Eligibility after terminating deferral of compensation. Any employee who terminates the deferral of compensation may choose to reenroll in the plan in accordance with paragraphs 15.12(4)*"a"* and *"b"* and 15.12(6)*"b."*

15.12(4) *Enrollment and termination.*

a. Enrollment. Employees may enroll in the tax-sheltered annuity plan at any time. Employees are responsible for selection and monitoring of their investment vehicle. The request for a salary reduction agreement must be submitted to the employing agency personnel assistant for approval in accordance with subrule 15.12(11). A satisfactorily completed enrollment form must be received by the plan administrator no later than the first day of a calendar month in order for deductions to begin with the first paycheck of the following month. Deductions shall be taken from the employee's paycheck beginning no sooner than the first paycheck of the following month. The policy shall become effective on the first day of the month following the beginning of payroll deductions. Agencies are responsible for timely submission of payroll documents to initiate salary deductions.

b. Forms submission. Within five calendar days following the first day of the pay period in which the first deduction is to be made, the employing agency shall provide the plan administrator with the applicable enrollment form. A form received after that date will be processed later, and the effective date of the deduction will be changed to reflect the first payroll deduction of the following month.

c. Termination of participation in the plan. A participating employee may terminate participation in the plan provided notification is received by the employee's department ten days prior to the employee's first deduction of the month.

d. Availability of forms. It is the responsibility of each employee interested in participating in the program to obtain the necessary forms from the agency of employment. It is the responsibility of each agency to inform its employees where and how they may obtain these forms. The forms shall be prescribed by the plan administrator, and agencies shall be advised as to their availability.

15.12(5) *Tax status.*

a. FICA and IPERS. The amount of compensation deferred under the salary reduction agreement shall be included in the gross wages subject to FICA and IPERS until the maximum taxable wages established by law have been reached.

b. Federal and state income taxes. The amount of earned compensation deferred under the agreement is exempt from federal and state income taxes until such time as the funds are paid or made available as provided In IRC Section 403(b).

15.12(6) *Deductions from earnings.*

a. When deducted. Each participating employee shall have the option as to whether the entire monthly amount of deferred compensation shall be deducted from the first paycheck of the month, the second paycheck of the month, or be equally divided between the first and second paychecks received during the month. If the monthly deferral cannot be divided into two equal payments, the third option is not available. Deferrals will not be deducted from the third paycheck of a month.

b. Deferral amount changes. Participating employees may increase or decrease their monthly deferral amount once each quarter during the calendar year by giving not less than 30 days' prior written notice to the plan administrator. The tax-sheltered annuity "salary reduction agreement" form, as provided for in paragraph 15.12(11)*"a,"* must be submitted to the plan administrator by the employee's agency within the first five calendar days after the first day of the pay period in which the first deduction is to be made. The first premium shall be deducted from the employee's paycheck beginning with the first paycheck of the second month following satisfactory completion of the prescribed form. Contributions can be changed to permit a one-time lump sum deferral from the last paycheck due to termination of employment.

c. Maximum deferral limits. Employees' deferrals may not exceed 20 percent of their annual gross salary minus IRC Section 125 pretax and dependent care deductions, with a maximum limitation of $9500 per calendar year or as otherwise provided for in the Internal Revenue Code. Calculations will be based on the FICA taxable wages.

d. Minimum amount deferred. The minimum amount of deferred compensation to be deducted from the earnings of a participating employee during any month shall be $25.

15.12(7) *Companies.*

a. Identification number. Each participating company shall be assigned an identification number by the plan administrator.

b. Time of payment. Payments shall be transmitted by the plan administrator to the companies within ten calendar days after the last workday of each month.

c. Annual status report. An annual status report stating the value of each participant's policy shall be provided by each company to the participating employee at the employee's home address. This practice shall be continued even after the participating employee terminates or cancels participation in the program. These annual reports are required as long as a value exists in the contract or any activity occurs during the year.

d. Method of payment. Each company shall be paid by one warrant each month regardless of the number of individual accounts with the company. Companies must minimize crediting errors and provide timely and reasonable credit resolution.

e. Solicitation. There shall be no solicitation of employees by companies at the employees' workplace during employees' work hours, except as authorized by the plan administrator.

f. Dividends. The only dividend options available on cash value policies are those where the dividend remains with the company to increase the value of the policy.

g. Removal from participation. Failure to comply with the provisions of these rules will result in permanent removal as a participating company and may require that the monthly ongoing deferrals to existing contracts be discontinued, as determined by the director.

15.12(8) *Disposition of funds.*

a. Termination of employment. An employee who has terminated state employment (including retirement) must make arrangements directly with the company to defer distributions or withdraw funds under any option available in the policy. If an employee elects to start receiving benefits at the normal retirement age, the amount withdrawn each year shall equal a settlement option which meets or exceeds the IRS minimum distribution requirements. Distribution will be made in accordance with applicable IRS regulations. If the former employee works beyond the age of 70½, the employee shall select a retirement option within 30 days after termination of employment.

b. Financial hardship. A participating employee may request that the company allow the withdrawal of some or all of the funds from the policy based on a financial hardship and in accordance with 401(k) regulations. Deferrals to a TSA will not be allowed for one year after such withdrawal according to IRC Section 403(b)(7).

c. Method of payment. The employee must notify the company of the intent to withdraw funds.

d. Federal and state withholding taxes. It shall be the responsibility of the company or mutual fund provider, when making payments to the former employee, to withhold the required federal and state income tax based on W-4P, to remit them timely to the proper government agency, and to file all necessary reports as required by federal and state regulations, including IRS Form 1099R.

e. Federal penalties.

(1) Under IRC Section 72(t), an additional tax of 10 percent of the amount includable in gross income applies to early withdrawal for qualified plans as defined in IRC Section 4974(c). A Section 403(b) contract is a qualified plan for these purposes.

(2) Eligible rollover distributions from a contract described in IRC Section 402(f)(2)(a) must be directed entirely to another TSA or IRA plan within 60 days following the withdrawal, or the funds must be left in the original contract. If the funds are not directed to a new qualified plan provider, the payor is required by IRC Section 3405(c) to withhold the mandatory percentage.

(3) A 15 percent excise tax applies if a participant takes an excess distribution in one year that is greater than the amount provided for in IRC Section 4980(a). Effective with the Small Business and Job Protection Act of 1996, the 15 percent excise tax has been repealed during years beginning after December 31, 1996, and before January 1, 2000.

15.12(9) *Group plans.*

a. Availability. Iowa Code section 19A.30 provides that the director may arrange for the purchase of group contracts for employees.

b. Size of groups. One or more employees shall constitute a group under this program.

15.12(10) *General.*

a. Orientation and information meetings. Agencies may hold orientation and information meetings for the benefit of their employees using materials developed or approved by the plan administrator, but there shall be no solicitation of employees by companies allowed at such meetings. The presence of a representative of a company will be interpreted as solicitation.

b. Location of policies. The company shall send the original policy to the employee.

c. Number of companies. Employees shall be limited to deferring contributions to only one company at a time. Only life insurance companies or mutual fund providers authorized to do business in the state of Iowa may sell policies under the plan, and then only if they agree to perform the specified administrative functions under the plan.

d. Company changes.

(1) If a participating employee wishes to change deferrals to another company, the employee shall submit forms to the plan administrator in accordance with paragraph 15.12(6)*"b."* The new company policy shall be effective on the first day of the month following the initial month of payroll deduction.

(2) The funds accumulated under the old policy may be transferred in total to the new policy or to another existing policy in accordance with applicable IRC Section 403(b) provisions. It is the responsibility of the employee and the company's agent to coordinate this change with the affected companies.

(3) An employee may change companies at any time during the calendar year. However, if the employee has already made one change during the current calendar quarter, the amount being deferred must remain the same as of the effective date of the change.

e. Deferred compensation or tax-sheltered annuity participation—maximum contribution. Employees who, under the laws of the state of Iowa, are eligible for both deferred compensation and tax-sheltered annuities shall be allowed to participate in one or the other of the programs, but not both. If, in the same calendar year, an eligible employee changes from a deferred compensation plan to a tax-sheltered annuity plan or vice versa, the maximum deferral for that calendar year for both plans combined may not exceed $7500, and all deferrals made in that calendar year, regardless of which plan, must be included when determining the remaining amount that can be deferred in that calendar year.

f. Employee termination from a tax-sheltered annuity eligible agency. When an employee leaves an agency that is eligible for tax-sheltered annuity participation under IRC Section 403(b), no further tax-sheltered annuity deductions will be allowed.

g. Direct transfer/rollover.

(1) An eligible roll-over distribution that is directly rolled over to an eligible retirement plan is considered to be a distribution followed by an immediate rollover. Amounts are subject to Section 403(b)(11) or 403(b)(7) withdrawal restrictions and are not eligible for rollover. Spousal consent and other similar participant and beneficiary protection rules apply.

(2) A direct transfer pursuant to IRS ruling 90-24 is not treated as a plan distribution. Amounts subject to Section 403(b)(11) or 403(b)(7) withdrawal restrictions may be transferred to another Section 403(b) funding vehicle provided the new funding vehicle imposes as stringent withdrawal restrictions as the old funding vehicle imposed prior to the transfer.

(3) A direct transfer may not be made to an IRA and is not limited to the participant or spouse beneficiary. Any beneficiary under an IRC Section 403(b) annuity is eligible to effect a direct transfer between Section 403(b) funding vehicles under IRS ruling 90-24.

(4) A participant may roll over an eligible roll-over distribution within 60 days following the date the distribution is received.

15.12(11) *Forms.* The administration of the TSA program shall be accomplished through the forms described in this subrule. Except as otherwise provided, all forms shall be developed by the plan administrator and distributed by the agency of employment.

a. Salary reduction agreement. This form shall authorize the plan administrator to make a stated dollar deduction from the participating employee's compensation as part of an IRC Section 403(b) plan.

b. Application for policy. A policy application form shall be supplied by the company to which the participating employee elects to defer compensation. The completed form shall be approved by the participating employee. The completed application form shall show the owner and beneficiary of the policy to be the participating employee.

15.12(12) *Forfeiture.* Section 403(b)(1)(c) of the IRC provides that an employee's interest in a Section 403(b) contract is nonforfeitable, except for failure to pay future premiums.

15.12(13) *Nontransferability.* The interest of the employee in the contract is nontransferable within the meaning of IRC Section 401(g). The contract may not be sold, assigned, discounted, or pledged as collateral for a loan or as security for the performance of an obligation or for any other purpose.

These rules are intended to implement Iowa Code sections 19A.1 and 19A.9.

581—15.13(19A) Deferred compensation (post-August 31, 1997). Rescinded IAB 1/13/99, effective 2/17/99.

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CHAPTER 5
FIRE MARSHAL

[Ch 5 as appeared in July 1974 IDR Supplement, rescinded June 30, 1975]
[Prior to 4/20/88, Public Safety Department [680] Ch 5]

GENERAL PROVISIONS

661—5.1(100) Description. This division's charter is to prevent fires. Fire causes are determined and communicated to the public by various means including the division's annual report. The division requires building standards necessary for fire safety and apprehends those who violate such standards or fire-related criminal statutes.

5.1(1) The division's administrator is entitled the state fire marshal. The fire marshal has one assistant. The nonclerical employees of this division are peace officers designated as special agents, fire prevention inspectors, fire prevention specialists, and designated subordinates.

5.1(2) Special agents examine a fire or a fire scene to determine its cause, and arrest any who unlawfully cause fires or violate fire-related laws.

5.1(3) Inspectors examine buildings to determine the compliance of its system with applicable laws or rules.

5.1(4) A fire prevention specialist examines blueprints and specifications of proposed buildings.

5.1(5) Variance from rules. The state fire marshal may grant variances from rules in this chapter. Variances may be granted at the discretion of the state fire marshal, upon a finding that a need for the variance has been established and that the safety standard of the rule will be achieved through equivalent technology or compensating factors.

Requests for variances shall be addressed in writing to the State Fire Marshal, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319. Forms for this purpose may be obtained from the state fire marshal. Each application must contain the following information:

a. The specific rule(s) from which a variance is requested.

b. Documentation of the need for a variance. Explanation should be given of the unreasonable hardship which would be created by compliance with the rule(s) cited in 5.1(5)*"a."*

c. Explanation of alternative means to achieve the safety standard of the rule(s) through use of equivalent technology or compensating factors.

The state fire marshal may request any additional information deemed relevant to a variance request. The state fire marshal shall grant or deny the requested variance within 60 days of receiving all requested information.

661—5.2(17A,80,100,101,101A) Definitions. The following definitions apply generally to the provisions of this chapter unless a specific exception is made with reference to a particular rule or sequence of rules within the chapter.

"Building" is any structure used for or intended for supporting or sheltering any use or occupancy. Each portion of a building separated by one or more area separation walls with a fire-resistive rating of at least two hours may be considered a separate building.

"Fire" includes explosions in which fire, combustion or rapid oxidation is an element but does not include explosions caused by nonflammable gases, liquids or other materials.

"Fire marshal" means the fire marshal, the assistant fire marshal, fire prevention inspectors, special agents, fire prevention specialist and designated subordinates.

"Fire marshal's office" means the headquarters of the fire marshal.

"Owner" (For service of notice, criminal sanctions and penalties.) If a building is owned by a corporation, the chairperson or president of the board of directors is considered the owner. If a building is owned by an organization governed by a board of trustees, the president or chairperson of the board is considered the owner. If a partnership is shown to be the owner of a building, any partner is considered the owner. If an individual is shown to be the owner, the individual, or the guardian or conservator of such individual is considered to be the owner. If the building is shown to be owned by a trade name, the person who registered the trade name is considered the owner.

661—5.3(17A) Building plan approval. The proposed construction of some buildings or additions, alterations or changes to existing buildings need the approval of the fire marshal and the fire marshal's approval may be obtained, if requested, on nonsingle family dwelling buildings. The procedure of this rule will apply unless inconsistent with a procedure in any of the rules which follow.

5.3(1) An initial evaluation or review by the fire marshal may be obtained on preliminary plans by submitting the plan that shows the building outline with rooms, corridors and exits indicated. The fire marshal informally responds to such preliminary plan.

5.3(2) Building plan submittals.

a. Working plans and specifications. When approval of building construction projects is required by this chapter or when requested by the submitter for other building construction projects covered by this chapter, one complete set of the final working plans and specifications shall be submitted to the fire marshal's office. The submittal shall comply with Iowa Code chapters 542B and 544A. The submittal is examined and submitter is notified of the findings. If the working plans and specifications comply with this chapter, an approval letter shall be sent to the submitter.

b. Shop drawings. Shop drawings, equipment specifications and supporting documentation for fire alarm and sprinkler systems may be submitted for review and approval. If the system is being installed as part of a project which has been designed by an engineer or architect, the submittal shall be approved by the responsible architect or engineer prior to submittal to the fire marshal. The submittal is examined and submitter is notified of the findings. If the submittal complies with the applicable standards, all copies are stamped approved and one copy is retained and the other copies, if any, are returned to the submitter. If only one copy of shop drawings, equipment specifications and supporting documentation is received, a letter shall be sent to the submitter in lieu of returning approved shop drawings.

c. Changes. No changes shall be made to the approved final working plans and specifications or shop drawings unless the changes are submitted to and approved by the fire marshal's office.

EXCEPTION: Submittal of working plans and specifications or shop drawings is not required when the plans and specifications or shop drawings have been reviewed for compliance with this chapter by the chief, or an employee authorized by the chief, of a fire department organized under Iowa Code chapter 400.

NOTE: Building, planning and design services are required to be in conformance with Iowa Code chapters 542B and 544A.

5.3(3) If the blueprints and specifications are not acceptable, the fire marshal's office specialist notifies the submitter of the deficiencies and requests that the submitter either forward changes or request a review of the blueprints and specifications with the specialist.

5.3(4) If, after such review, the submitter disputes the specialist's findings, the submitter may request that the disputed questions be referred to the national fire protection association or other similar generally recognized authority, at the submitter's expense, and the specialist submits the blueprints and specifications to the national fire protection association or other similar generally recognized authority for their analysis.

5.3(5) If the submitter disputes the findings of the national fire protection association, the submitter may appeal to the fire marshal under the procedures of 661—Chapter 10.

661—5.4(17A,100,101,101A) Inspections. Certain buildings as designated in the Iowa Code shall comply with the Iowa Code and fire safety rules. The fire marshal determines and enforces such compliance. To do so, the fire marshal may enter such building or premises at any time without notice to inspect it.

5.4(1) Such inspection may be of a particular system in the building. For example, the electrical, heating, exit, valve, piping and venting systems may be inspected. The inspection may include the entire building. For example, the building may be so dilapidated as to be especially liable to fire.

5.4(2) Such inspection is conducted by the fire marshal or by a consultant as requested by the fire marshal. A consultant would be a person with the necessary degree of training, education or experience to examine a system within a building required to be in compliance with the law or rules and determine if such system or systems is in compliance with such requirements.

5.4(3) Inspections are conducted without announcement and occur on a random basis, upon anyone's request, upon any complaint or when fire appears to be possible. For example, the presence of flammable liquids or gases or the odor thereof outside a building storing such gases or liquids may cause an inspection.

5.4(4) When the member or consultant arrives at the building that is to be inspected, the member or consultant usually advises the owner. If a person in such a position cannot be contacted, the inspection commences anyway. If the owner or representative wishes to accompany the member or consultant, they may do so, but the inspection is not delayed.

5.4(5) The member or consultant examines the system or systems being inspected to determine compliance with the laws or rules. To guide the inspection, the member or consultant uses state rules or a manual recommended by the national fire protection association or a similar acceptable fire protection agency.

5.4(6) Upon completion of an inspection, the member or consultant completes written inspection orders. The original is filed in the fire marshal's office by county; a copy is filed in the member's office in a geographical area file; and a copy is left with the fire department having jurisdiction.

5.4(7) Upon completion of the inspection, if the building does not comply with applicable laws or rules, the member or consultant identifies specifically such noncompliance and notifies the owner. The owner may be ordered to correct or repair the deficiency or may order the building removed or demolished.

a. Copies of the notice of deficiencies or order are distributed to the fire marshal's office and the fire department having jurisdiction and a copy is filed in the member's office.

b. The time to comply with the order is determined by the member considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish and other reasonable, relevant information.

c. If the owner of the building does not agree with the deficiency findings and order, the owner asks the fire marshal to review the order. The provisions of 661—Chapter 10 are then used.

d. Failure to comply with an order may incur penalties.

661—5.5(17A) Certificates for license. Several Iowa statutes provide that a license to conduct certain functions cannot be issued until the fire marshal has approved the building to be used for such function. Upon receipt of a written request, the fire marshal conducts or has conducted an inspection using the procedures contained in the building inspection rule 5.4(17A,100,101,101A). Upon completion of an inspection showing the building to be in compliance, the fire marshal issues a certificate. If the building is found to be in noncompliance, the certificate applicant may file a petition requesting a review and the same procedure is used as if an order were being requested to be reviewed. Upon completion of the review process, if the building is found to be in compliance, a certificate is then issued.

661—5.6(17A,80,100) Fire investigations.

5.6(1) The fire marshal has the authority to investigate any fire in the state of Iowa.

5.6(2) City and township officers have the primary responsibility to and shall investigate fires. The city or township officer shall file a report of each fire with the fire marshal's office within one week of the fire even if the fire marshal's division participated in, assisted with, directed or supervised the fire investigation. Upon written request, the fire marshal may grant an extension of the time for filing this report for a period not to exceed 14 days. The request shall set forth compelling reasons for such extension.

5.6(3) The city or township officer shall immediately report a fire that involves death or suspected arson and does so by contacting the member assigned to that area or, if not available, the fire marshal's office or the fire marshal or assistant or, if no such contact can be made, the officer asks the county sheriff to relay the information to the Iowa police radio or teletype system (patrol communications division). The officer's report will be recorded or logged.

5.6(4) The notice of a fire involving death or arson contains the following information, if known:

a. If death has occurred or is suspected, the name, age and address of person or persons deceased or missing; the date, time and address of the fire; and the suspected cause of fire.

b. If arson is suspected, the date, time, address of the fire; the reasons for suspecting arson; whether there is obvious evidence of arson and if there is an arson suspect.

c. Whether an explosion occurred.

5.6(5) If Iowa police radio has been so notified, it immediately notifies the fire marshal or the nearest available member of the fire marshal's division.

5.6(6) The fire marshal may, while investigating the cause of a fire, compel witnesses and others to testify under oath and to submit books, records and other documents.

a. This is in the discretion of the fire marshal and may be exercised anytime, including fires that involve an extensive loss, a death, arson or explosion, or suspected arson.

b. The fire marshal may allow a person to submit to a polygraph examination.

5.6(7) The fire marshal notifies the person compelled to give testimony or information.

5.6(8) The fire marshal may assist a local officer in the investigation of any fire. The fire marshal may superintend, direct or conduct the investigation of a fire and may request the participation of a consultant when:

a. Requested by state or local authority to do so.

b. A death has occurred, an extensive amount of property has been destroyed, arson is suspected or an explosion has occurred.

c. A person is identified as an arson suspect.

d. There is obvious physical evidence of arson.

e. The fire marshal deems it necessary.

5.6(9) The fire marshal, when participating in the investigation of a fire, may request the person in control of the premises to execute a consent to search.

661—5.7(17A,101A) Explosive materials. Those wishing to receive an explosive materials commercial license may obtain a copy of the required application by contacting the fire marshal's office, sheriff's office or the office of the chief of police in cities of over 10,000 people.

5.7(1) Such application is submitted to the sheriff's office or office of the chief of police. That agency reviews the application, investigates the applicant, inspects the buildings, if necessary, and completes the application, then forwards it to the fire marshal.

a. If the application is approved, the fire marshal enters approval thereon, notifies the local agency, and issues the license.

b. Explosive materials commercial license expires on December 31 of each year and may be renewed.

c. If an application is denied, the applicant may appeal under 661—Chapter 10.

5.7(2) A person wishing to purchase, possess, transport, store or detonate explosive materials shall obtain a permit to do so from the county sheriff or the chief of police.

5.7(3) When a sheriff confiscates explosive materials, the sheriff shall give notice to the state fire marshal's office as soon as reasonably possible.

661—5.8(100,101,101A) Fire drills. All public and private school officials and teachers shall conduct fire drills in all school buildings as specified in Iowa Code section 100.31 when school is in session. All doors and exits of their respective rooms and buildings shall remain unlocked during school hours or when such areas are being used by the public at other times.

661—5.9(17A,100) Fire escapes. Upon receipt of a written communication from an owner appealing the action or requirement of any fire escape inspector that sets forth such action or requirement and the objections the owner has to the action or requirement of such inspector, the provisions of 661—Chapter 10 will apply.

661—5.10(17A,22,100,692) Public inspection of fire marshal files and fire records. The fire marshal's office keeps a record on file of every reported fire in Iowa. All other important written information gathered by the fire marshal also is filed. Most of the contents of these documents are available to the public. Some of the information contained in these files, such as intelligence data or criminal history data, as defined in Iowa Code chapter 692, is not a public record. Requests for information should be addressed to the State Fire Marshal, Wallace State Office Building, Des Moines, Iowa 50319.

5.10(1) A person may obtain a copy of a public record by either visiting the fire marshal's office or submitting a request in writing. Before visiting this office to examine these records, one should contact the office first to determine if personnel will be available to assist them. Such examination may take place during reasonable business hours and public records may be copied.

5.10(2) If a person wishes a copy of the record of a particular fire, it may be copied in the fire marshal's office or that person may so request by writing to the fire marshal's office setting forth the date, time and address, including county, of the fire. The fire marshal will forward a copy of the public record and may request reimbursement for the actual cost of copying and mailing the information.

661—5.11(17A,80,100) Information requested before inspection. Persons requesting the inspection of a building that is alleged to require repair, removal or demolition under Iowa Code section 100.13 shall provide the following information, if known: the address of the building; the name and address of the building's owner; the requester's name, address and telephone number; and a general description of the alleged deficiencies which the requester seeks remedied.

5.11(1) *Initial determination.* The fire marshal, upon receipt of the information, shall make an initial determination whether there are sufficient allegations to warrant an inspection.

a. If, in the fire marshal's opinion, the complaint fails to warrant conducting an inspection, the fire marshal shall then so advise the complainant.

b. If the fire marshal determines that an inspection is warranted, the fire marshal will so advise the county attorney, the requester and person(s) identified as the owner(s).

5.11(2) *Cause to be inspected.* The fire marshal shall then cause the inspection of the building to determine if:

a. By want of proper repair, or by reason of age and dilapidated condition, it is especially liable to fire and is so situated as to endanger other buildings, property or persons, or

b. It contains combustibles, explosives or flammable materials dangerous to the safety of any buildings, premises or persons.

5.11(3) *Final decision.* Upon completion of the inspection the fire marshal shall then decide if the building needs to be removed or repaired.

a. If the building complies with applicable laws or rules and no deficiencies are found, the fire marshal shall accordingly notify the county attorney, the owner and the requester.

b. If any deficiencies are found, and the building is within the corporate limits of a city, the fire marshal shall then notify the mayor and clerk of said city of the deficiencies and the need for repairs or removal.

c. If any deficiencies are found, and the building is within the corporate limits of a city, the fire marshal shall then identify specifically such deficiencies and prepare an order to correct or repair the deficiencies or remove or demolish the building. Such notice and order should be sent to the county attorney with a request that the notice and order be examined by the county attorney.

5.11(4) *Verification of legal description.* The county attorney shall, upon receipt of the fire marshal's notice and order, verify the legal description and identification of the property owner and shall advise the fire marshal how to properly serve the order.

5.11(5) *Contents of order.* This order shall notify the owner of the building that the order becomes effective upon its receipt or issuance. The order shall also notify the owner that, within five days after the order's effective date, the owner may file a petition for review of the order in accordance with Iowa Code section 100.14.

5.11(6) *Who shall be served.* If the county attorney deems it appropriate, any occupants, lienholders or lessees shall be served with a copy of the order.

5.11(7) *Reasonable time to comply.* The order shall give the owner a reasonable time to comply with its mandate(s). The fire marshal shall determine what constitutes a reasonable time by considering the likelihood of fires, the possibility of personal injury or property loss, the cost, availability of materials and labor to correct, repair, remove or demolish the building and other reasonable, relevant information.

5.11(8) *Reinspection.* If the owner of the building elects not to challenge the fire marshal's order, the fire marshal shall then, at the end of the period during which compliance was required, conduct another inspection of the building.

a. If the fire marshal finds that the order has been complied with, the fire marshal shall notify the county attorney, owner and requester of this fact.

b. If the fire marshal finds that the order has not been complied with, the fire marshal will notify the county attorney of noncompliance.

5.11(9) *Failure to comply.* Upon receipt from the fire marshal of the owner's failure to comply, the county attorney shall:

a. Institute the procedure necessary to subject the owner to a penalty of $10 for each day the owner fails to comply, and

b. Confirm the legal description of the property, the owner's name and address, the alleged deficiencies of the building, that an inspection was conducted, that some deficiency was found, that the owner was properly served, notified and given an adequate opportunity to repair the deficiency, and that the deficiency has not been remedied and may, therefore, advise the fire marshal that the destruction is appropriate at this time.

5.11(10) *Final action taken.* The fire marshal, upon the advice of the county attorney, may repair, remove or destroy the building. Such destruction may occur by:

a. Permitting the local fire service to burn the building as a training exercise;

b. Asking for public bids on the building;

c. If significant costs are anticipated, the fire marshal may request funds from the Iowa executive council.

661—5.12(17A,80,100A) Sharing of insurance company information with the fire marshal. Insurance companies shall provide the specified information to the fire marshal as follows:

5.12(1) Whenever an insurance company has reason to believe that a fire loss insured by the company was caused by something other than an accident, said insurance company shall provide to the fire marshal, or some other agency authorized to receive such information under Iowa Code chapter 100A, all information and material possessed by said company relevant to an investigation of the fire loss or a prosecution for arson.

5.12(2) Whenever the fire marshal, or an agent or employee of the fire marshal, requests in writing that an insurance company provide information in its possession regarding a fire to the fire marshal, the insurance company shall provide all relevant information requested. Relevant information may include, but need not be limited to:

a. Insurance policy information relating to a fire loss under investigation including information on the policy application.

b. Policy premium payment records.

c. History of previous claims made by the insured.

d. Material relating to the investigation of the loss, including the statement of any person, proof of loss, and other information relevant to the investigation.

5.12(3) Unless otherwise expressly limited any request for information under this rule shall be construed to be a request for all information in the possession of an insurance company. Any information in the custody or control of any agent, employee, investigator, attorney or other person engaged by an insurance company, on a permanent or temporary basis, in the person's professional relationship to the insurance company shall be considered to be in the possession of the insurance company subject to this rule.

661—5.13(17A,80,100A) Release of information to an insurance company. An insurance company which has provided fire loss information to an authorized agency pursuant to Iowa Code section 100A.2 may request information relevant to said fire loss investigation from the fire marshal. If the insurance company has provided information to an authorized agency other than the fire marshal, the request shall include proof that information was provided. For purposes of this rule the term insurance company shall include an attorney, adjustor or investigator engaged by the company in reference to the particular fire loss involved in the request even though the attorney, adjustor or investigator is not a full-time employee of the insurance company. The attorney, adjustor or investigator shall provide the fire marshal with proof of authorization from the insurance company to act as its representative relative to the loss.

661—5.14(17A,80,100A) Forms. These rules require the use of the following forms that are available from the commissioner or the state fire marshal.

5.14(1) When an insurance company has reason to believe that a fire loss has occurred, the company shall notify the fire marshal on the form entitled "Insurance Form Number One."

5.14(2) Requests for information by the fire marshal, the fire marshal's agents or employees from an insurance company pursuant to Iowa Code section 100A.2 shall comply with the form entitled "Insurance Form Number Two."

5.14(3) Material requested on Insurance Forms Number One and Two shall carry a cover form which complies with "Insurance Form Number Three."

5.14(4) Request for information by an insurance company from the fire marshal shall comply with "Insurance Form Number Four."

661—5.15 to 5.39 Reserved.

661—5.40(17A,80,100) Portable fire extinguishers—generally. The standard for "Portable Fire Extinguishers," No. 10, 1988 edition of the National Fire Protection Association, together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code, 1988 edition of the National Fire Protection Association published in 1988, shall be the rule governing portable fire extinguishers in the state of Iowa.

5.40(1) Portable halogenated fire extinguishers. Approved portable halogenated fire extinguishers may be permitted for use in electrical, telephone, or computer equipment areas in public buildings referred to in Iowa Code section 100.35.

5.40(2) Reserved.

661—5.41(17A,80,100) Halon fire extinguishing systems—generally. The standards on "Halon 1301 Fire Extinguishing Systems," No. 12A, 1987 edition of the National Fire Protection Association, and "Halon 1211 Fire Extinguishing Systems," No. 12B, 1985 edition of the National Fire Protection Association together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code, 1988 edition of the National Fire Protection Association, published in 1988, shall be the rules governing Halon fire extinguishing systems in the state of Iowa.

661—5.42(100) Cellulose insulation. This rule shall apply to all cellulose insulation loose-fill or spray applied which is used, sold or offered for sale in Iowa after December 8, 1988.

Cellulose insulation shall consist of virgin or recycled wood-based cellulosic fiber and may be made from related paper or paperboard stock, excluding contaminated materials and extraneous foreign materials such as metals and glass which may reasonably be expected to be retained in the finished product. Suitable chemicals may be introduced to improve flame resistance processing and handling characteristics. The particles shall not be so fine as to create a dust hazard, and the added chemicals shall not create a health hazard. The materials used must be capable of proper adhesion to the additive chemicals.

5.42(1) Cellulose insulation shall comply with the requirements of the Consumer Product Safety Commission, Interim Safety Standard for Cellulose Insulation, 16 CFR Part 1209 (1-1-87 edition).

5.42(2) Notwithstanding the requirements of 16 CFR 1209.33, the manufacturer shall contract with an independent National Voluntary Laboratory Accreditation Program (NVLAP) laboratory, administered by the United States Department of Commerce, National Bureau of Standards, which is approved to perform the tests necessary for compliance with the standards.

a. The manufacturer shall include in the laboratory service a follow-up inspection program which will include at least six unannounced inspections per year.

b. The testing laboratory shall obtain enough samples from production and inventory and may also purchase sufficient bags to ensure that the samples are a representative cross section of the material being tested.

c. In the event that samples obtained by the testing laboratory fail to meet the test standards, the manufacturer, with the approval of the testing laboratory, shall take whatever action is necessary to correct the production process and bring the product into compliance.

5.42(3) In addition to the labeling requirements of 16 CFR 1209.9, the containers of cellulose insulation shall indicate that a follow-up inspection program is being carried out.

661—5.43 to **5.49** Reserved.

These rules are intended to implement Iowa Code chapters 100 and 100A.

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MEANS OF EXIT

661—5.50(100) Exits.

5.50(1) Scope. The fire marshal shall adopt, amend, promulgate and enforce rules and standards relating to safe exiting from new and existing buildings, facilities and structures as defined in Iowa Code section 100.35, in and for churches, lodge halls, courthouses, assembly halls, theaters, opera houses, hotels, colleges, schoolhouses, hospitals, health care facilities, amphitheaters, dormitories, restaurants, taverns, night clubs, public meeting places, apartment buildings and any other buildings or structures used for, but not limited to, such purposes as deliberation, worship, entertainment, amusement or awaiting transportation.

5.50(2) The standards adopted by the commissioner of labor of the state of Iowa pursuant to Iowa Code section 88.5 with regard to fire safety, fire protection, exits and exit lights, and the elimination of fire hazards as they existed on January 1, 1982, are hereby adopted as the standards applicable to buildings, facilities and structures utilized by manufacturers.

5.50(3) 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(4) 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 the state fire marshal's jurisdiction.

5.50(5) An 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 75 feet from any point to reach the nearest fire extinguisher.

5.50(6) 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(7) 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(8) 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(9) The state fire marshal shall 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.

5.50(10) Food preparation facilities shall be protected and maintained in accordance with the standard for the "Removal of Smoke and Grease-Laden Vapors from Commercial Cooking Equipment," No. 96, 1987 edition of the National Fire Protection Association.

5.50(11) Definitions. The following definitions apply to rules 661—5.50(100) to 661—5.105(100):

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 50 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 or first story. See specific occupancies for other provisions.

c. *"Continental seating"* is the configuration of fixed seating where the number of seats per row exceeds 14 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. *"Dwelling unit"* is any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one family.

f. *"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.

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

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

i. *"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.

j. *"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.

k. *"Manufacture"* is the process of making, fabricating, constructing, forming, or assembling a product from raw, unfinished, or semifinished materials.

l. *"Mezzanine"* or *"mezzanine floor"* is an intermediate floor placed in any story or room. When the total of any such mezzanine floor exceeds 33 1/3 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 7 feet.

m. *"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.

n. *"Private stairway"* is a stairway serving two or more floors not connected to a required means of exit.

o. *"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 10 feet.

p. *"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.

q. *"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 underfloor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused underfloor space shall be considered as a story.

r. *"Underground structure"* is a structure in which there is not direct access to outdoors or to another fire area other than by upward travel.

s. *"Windowless structure"* is a building lacking any means for direct access to the outside or outside openings for light or ventilation through windows.

t. *"Story, first"* is the lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet below grade, as defined herein, at any point.

5.50(12) Exit obstruction. Obstructions shall not be placed in the required width of an exit except projections permitted by this chapter.

5.50(13) Changes in elevation. Within a building, changes in elevation of less than 12 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(14) 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.

661—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 18 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 24 inches of booth length or major portion thereof.

c. *Reviewing stands, grandstands, and bleachers.* The occupant load for reviewing stands, grandstands and bleachers shall be calculated in accordance with rule 661—5.51(100).

*See Table No. 5-A following rule 5.105(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 50 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 in legible condition by the owner or the owner's authorized agent and shall indicate the number of occupants permitted for each room use.

661—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 these rules, 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 2,000 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.

Every floor above or below the first 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 permitted 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 escape or rescue window having a minimum net clear opening of 5.7 square feet. The minimum net clear height opening dimension shall be 24 inches. The minimum net clear opening width dimension shall be 20 inches. Where windows are provided as a means of escape or rescue they shall have a finished sill height not more than 44 inches above the floor.

Every story or portion thereof having an occupant load of 501 to 1,000 shall have not less than three exits.

Every story or portion thereof having an occupant load of 1,001 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.

*See Table No. 5-A following rule 5.105(100).

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 50. 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 30 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 150 feet or 200 feet in a building equipped with an automatic sprinkler system throughout. These distances may be increased 100 feet when the last 150 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 400 feet if the building is equipped with an automatic sprinkler system throughout and provided with approved smoke and heat ventilation system.

In a ramp or mechanical access open parking garage, the exit travel distance may be increased to 250 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 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, storerooms, 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) *Automatic sprinkler system.* An approved automatic sprinkler system shall be installed in every story or basements of all buildings when the floor area exceeds 1,500 square feet and there is not provided at least 20 square feet of opening entirely above the adjoining ground level in each 50 lineal feet or fraction thereof of exterior wall in the story or basement on at least one side of the building. Openings shall have a minimum dimension of not less than 30 inches. Such openings shall be accessible to the fire department from the exterior.

When openings in a story are provided on only one side and the opposite wall of such story is more than 75 feet from such openings, the story 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 story.

If any portion of a basement is located more than 75 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 1,500 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.

661—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. Buildings 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.* An exit door 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 50 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 100 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 200 square inches.

5.53(3) *Type of lock or latch.*

a. 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 an exterior exit door when used as the primary entrance to the building 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 for due cause by the authority having jurisdiction.

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 48 inches above the finished floor.

3. In buildings protected throughout by approved supervised automatic smoke detection systems or approved supervised automatic sprinkler systems, and where permitted by the rules for specific occupancies, doors may be equipped with approved, listed locking devices which shall meet the following requirements:

- The device shall unlock upon activation of an approved supervised sprinkler system, or upon activation of any heat detector or any smoke detector of an approved supervised automatic fire detection system.
- The device shall unlock upon loss of power controlling the lock or locking mechanism.
- The device shall be capable of deactivation by a signal from a switch located in an approved location.
- The device shall initiate an irreversible process that releases the lock within 15 seconds whenever a force is continuously applied to the release device. The time to initiate the release process shall not exceed 3 seconds and the minimum force required shall not exceed 15 pounds. Once this unlocking process has been initiated, relocking shall be by manual means only. Operation of the release device shall activate an audible signal in the vicinity of the door to ensure those attempting to exit that the release device is functional.
- The device shall unlatch in a single operation.

On each door adjacent to the release device shall be posted a sign that reads: "PUSH UNTIL ALARM SOUNDS. DOOR CAN BE OPENED IN 15 SECONDS." Lettering on each sign shall be at least 1 inch high and 1/8 inch wide.

Emergency lighting shall be provided at each door.

b. 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 doorknob 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 shall be provided for an assembly of 50 or more. Panic hardware shall be of an approved type. The activating member shall be mounted at a height of not less than 30 inches nor more than 44 inches above the floor. The unlatching force shall not exceed 15 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 3 feet in width and not less than 6 feet 8 inches in height. When installed, exit doors shall be capable of opening so that the clear width of the exit is not less than 32 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 4 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 30 inches in height with solid or mesh panels to prevent penetration into door swing and shall be capable of resisting a horizontal load at the top of the rail of not less than 50 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 12-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 8 feet 11 inches beyond door in open position and guide rails extend 6 feet 5 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 ½ inch lower than the threshold of the doorway. When doors are open over landings, the landing shall have a length of not less than 5 feet.

EXCEPTION: When the door opens into a stair of a smokeproof enclosure, the landing need not have a length of 5 feet.

5.53(9) *Door identification.* Glass doors shall conform to the requirements specified in Federal Specification DD-G-00451b, August 1966, 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 6 feet 6 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.

661—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 5 feet 9 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 44 inches in width. Regardless of the occupant load, corridors in dwelling and lodging occupancies and within dwelling units in hotels, apartments, convent or monastery occupancies shall have a minimum width of 36 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 7 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 7 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 1½ 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 20 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 30 feet in width where occupancies served by such corridors have at least one exit independent from the corridor.
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 shall be limited to Class A. Class B may be permitted in a fully sprinklered building. See Table No. 5-C following 661—5.105(100).

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 20 minutes when tested in accordance with National Fire Protection Association Standard 252, 1984 edition, 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 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 1 inch in diameter through the door, having at least a ¼-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 ¼-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 25 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.

661—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 50 or more shall be not less than 44 inches in width. Stairways serving an occupant load of 49 or less shall be not less than 36 inches in width. Private stairways serving an occupant load of less than 10 shall be not less than 30 inches in width.

Handrails may project into the required width a distance of 3½ inches from each side of a stairway. Other nonstructural projections such as trim and similar decorative features may project into the required width 1½ inches on each side.

5.55(3) *Rise and run.* The rise of every step in a stairway shall be not less than 4 inches nor greater than 7 inches. The run shall be not less than 11 inches as measured horizontally between the vertical planes of the furthermost 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 3/8 inch. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch.

EXCEPTIONS:

1. Private stairways serving an occupant load of less than ten and stairways to unoccupied roofs may be constructed with an 8-inch maximum rise and 9-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 3 inches in every 3 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 10 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 3/8 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 4 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 7 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 12 feet vertically between landings.

5.55(8) *Handrails.*

a. Stairways shall have handrails on each side, and every stairway required to be more than 88 inches in width shall be provided with not less than one intermediate handrail for each 88 inches of required width. Intermediate handrails shall be spaced approximately equal across the entire width of the stairway. Handrails shall be able to withstand 50 pounds per lineal foot both horizontally and vertically.

EXCEPTIONS:

1. Stairways 44 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 30 inches or less in width may have handrails on one side only.

b. Handrails shall be placed not less than 34 inches nor more than 38 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 6 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 1¼ inches nor more than 2 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 1½ 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 30 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 42 inches in height. Open guardrails and stair railings shall have intermediate rails or an ornamental pattern such that a sphere 6 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.

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 26 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 10 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 16 square feet in area with a minimum dimension of 2 feet.

EXCEPTION: The hatch need not be provided on smokeproof 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 2 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 4 in 12. See subrule 5.55(11) for roof hatch requirements.

5.55(14) *Headroom.* Every stairway shall have a headroom clearance of not less than 6 feet 6 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 5 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 of 12 inches by 12 inches.

b. The stairway location shall be placed at the top of the sign in 1-inch-high block lettering with ¼-inch stroke. (Stair No. 1 or west stair).

c. The stairway's upper terminus shall be placed under the stairway identification in 1-inch-high block lettering with ¼-inch stroke (roof access or no roof access).

d. The floor level number shall be placed in the middle of the sign in 5-inch-high lettering with ¾-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 1-inch-high block lettering with ¼-inch stroke.

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

661—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 1 vertical to 8 horizontal.

When provided with fixed seating, the main floor of the assembly room of an assembly occupancy may have a slope not steeper than 1 vertical to 5 horizontal.

5.56(4) *Landings.* Ramps having slopes steeper than 1 vertical to 15 horizontal shall have landings at the top and bottom, and at least one intermediate landing shall be provided for each 5 feet of rise. Top landings and intermediate landings shall have a dimension measured in the direction of ramp run of not less than 5 feet.

Doors in any position shall not reduce the minimum dimension of the landing to less than 42 inches and shall not reduce the required width by more than 3½ inches when fully open.

5.56(5) *Handrails.* Ramps having slopes steeper than 1 vertical to 15 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.

661—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 3 square feet of net clear floor area per ambulatory occupant and 30 square feet per nonambulatory occupant.

661—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 2 feet of the draft curtain. The draft curtain shall enclose the perimeter of the unenclosed opening and extend from the ceiling downward at least 12 inches. The spacing between sprinklers shall not exceed 6 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 30 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 50 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 stairways.* 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.

661—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 65 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.*

a. 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 20 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.

b. Open air vestibule. The vestibule shall have a minimum dimension of 44 inches in width and 72 inches in direction of exit travel. The vestibule shall have a minimum of 16 square feet of opening in a wall facing an exterior court, yard or public way at least 20 feet in width.

5.59(7) *Smokeproof enclosure by mechanical ventilation.*

a. Doors. The doors 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 20 minute fire-resistive rating. The door to the stairways shall be provided with a dropsill or other provision to minimize the air leakage. The doors shall 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 44 inches in width and 72 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 150 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 6 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 20 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.

661—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 7 feet except for projections permitted in corridors by this chapter. The minimum exit court width shall be not less than 44 inches.

When the width is reduced from any cause, the reduction shall be affected gradually by a guardrail at least 3 feet in height and making an angle of not more than 30 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 10 feet in width, the exit court walls shall be a minimum of one-hour fire-resistive construction for a distance of 10 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.

661—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 opening 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 5.54(100).

661—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 1 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) *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 50.

EXCEPTION: Churches with an occupancy of 300 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 system shall be installed in accordance with the requirements of the electrical code.

661—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 as an occupant load of 50 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 6 inches in height with a stroke of not less than ¾ inch.

5.63(3) *Illumination.* Signs shall be internally or externally illuminated by two electric lamps or shall be of an approved self-luminous type. When the luminance on the face of an exit sign is from an external source, it shall have an intensity of not less than 5.0 foot-candles from either lamp. Internally illuminated signs shall provide equivalent luminance.

5.63(4) *Power supply.* Current supply to one of the lamps for exit signs shall be provided by the premises' wiring system. Power to the other lamp shall be from storage batteries or an on-site generator set and the system shall be installed in accordance with the National Electrical Code.

661—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:

a. In areas serving employees only, the minimum aisle width may be 24 inches but not less than the width required by the number of employees served.

b. In public areas of mercantile, office, plant and workshop occupancies, and in assembly occupancies without fixed seats, the minimum clear aisle width shall be 36 inches where tables, counter, furnishings, merchandise or other similar obstructions are placed on one side of the aisle only and 44 inches where such obstructions are placed on both sides of the aisle.

c. In assembly occupancies with fixed seats.

(1) With standard seating, every aisle shall be not less than 3 feet when serving seats on only one side and not less than 42 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 1½ inches for each 5 feet of length toward the exit, cross aisle or foyer.

(2) With continental seating as specified in rule 5.65(100) side aisles shall be provided and be not less than 44 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 150 feet. Such travel distance may be increased to 200 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 18 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 50 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 20 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 50 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).

661—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 12 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. 18 inches between rows for 1 to 18 seats
2. 20 inches between rows for 19 to 35 seats
3. 21 inches between rows for 36 to 45 seats
4. 22 inches between rows for 46 to 59 seats
5. 24 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 66 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.

661—5.66 to 5.99 Reserved.

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LIFE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

661—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 permitted 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) Provisions of this chapter shall apply to existing buildings as well as new, except that the authority having jurisdiction may permit conditions legally in existence at the time of the adoption of these rules.

Those buildings, structures or facilities not legally in existence or not meeting these rules at the time of their adoption shall within a reasonable period designated by the state fire marshal or the authority having jurisdiction complete the work necessary.

5.100(5) Rescinded IAB 9/16/92, effective 11/1/92.

5.100(6) The requirements of subrule 5.52(6) for automatic sprinkler systems shall not apply to buildings constructed prior to the effective date of these rules unless required by specific occupancies enforced by the state fire marshal under the state fire marshal's jurisdiction.

This rule is intended to implement Iowa Code section 100.35.

661—5.101(100) Exits.

5.101(1) *Number of exits.* Every floor above 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. Subject to the approval of the authority having jurisdiction, an approved ladder device may be used in lieu of a fire escape when the construction feature or location of the building on the property make the installation of a fire escape impracticable.

An exit ladder device may be used only when:

a. It 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 from a balcony.

d. It does 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. It is so installed that it will not cause a person using it to be within 6 feet of exposed electrical wiring.

g. All load-bearing surfaces and supporting hardware shall be of noncombustible materials. Exit ladder devices shall have a minimum width of 12 inches when in the position intended for use. The design load shall be not less than 400 pounds for 16-foot length and 600 pounds for 25-foot length.

h. Exit ladder devices shall be capable of withstanding an applied load of four times the design load when installed in the manner intended for use. Test loads shall be applied for a period of one hour.

5.101(2) *Stair construction.* All required stairs shall have a minimum run of 9 inches and a maximum rise of 8 inches and shall have a minimum width of 30 inches exclusive of handrails. Every stairway shall have at least one handrail. A landing having a minimum 30-inch run in the direction of travel shall be provided at each point of access to the stairway. Exterior stairs shall be of noncombustible construction.

EXCEPTION: Fire escapes as provided for in this section.

EXCEPTION: On buildings of types III, IV, V, provided the exterior stairs are constructed of wood not less than 2 inches nominal thickness.

5.101(3) *Corridors.* Corridors serving as required exit for an occupant load of 30 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 ½ 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 20 minute fire assemblies or solid wood doors not less than 1¾ inches thick. Where the existing frame will not accommodate the 1¾-inch-thick door, a 1 3/8-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(9) of this code or shall be covered with a minimum of 5/8-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.*

a. Existing fire escapes which in the opinion of the authority having jurisdiction comply with the intent of this section may be used as one of the required exits. The location and anchorage of fire escapes shall be of approved design and construction.

b. Fire escapes shall comply with the following:

(1) Access from a corridor shall not be through an intervening room.

(2) All openings within 10 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.

(3) Egress from the building shall be by a clear opening having a minimum dimension of not less than 29 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 at the floor of the building or balcony.

(4) Fire escape stairways and balconies shall support the dead load plus a live load of not less than 100 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 60 degrees with a minimum width of 18 inches. Treads shall be not less than 4 inches in width and the rise between treads shall not exceed 10 inches. All stair and balcony railings shall support a horizontal force of not less than 50 pounds per lineal foot of railings.

(5) Balconies shall be not less than 44 inches in width with on floor opening other than the stairway opening greater than 5/8 inch in width. Stairway openings in such balconies shall be not less than 22 inches by 44 inches. The balustrade of each balcony shall be not less than 36 inches high with not more than 9 inches between balusters.

(6) Fire escapes shall extend to the roof or provide an approved gooseneck ladder between the top floor landing 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 100 pounds per lineal foot, each rung shall support a concentrated load of 500 pounds placed anywhere on the rung. All ladders shall be at least 15 inches wide, located within 12 inches of the building and shall be placed flatwise relative to the face of the building. Ladder rungs shall be at least ¾ inch in diameter and shall be located 12 inches on center. Openings for roof access ladders through cornices and similar projections shall have minimum dimensions of 30 inches by 33 inches.

(7) The lowest balcony shall be not more than 18 feet from the ground. Fire escapes shall extend to the ground or be provided with counterbalanced stairs reaching to the ground.

(8) Fire escapes shall not take the place of stairways required by the codes under which the building was constructed.

(9) Fire escapes shall be kept clear and unobstructed at all times and maintained in good working order.

(10) All fire escapes shall have walls or guards on both sides, with handrails not less than 30 inches nor more than 42 inches high measured vertically from a point on the stair tread 1 inch back from the leading edge.

(11) 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.

(12) Tread construction must be solid, with ½-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.

661—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 openings 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.

661—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.

661—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.

661—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 safeguards 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.

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

	TYPE I	TYPE II			TYPE III		TYPE IV	TYPE V	
	NONCOMBUSTIBLE				COMBUSTIBLE				
BUILDING ELEMENT	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[1]	3	2	1	N	1	N	1 or H.T.	1	N
Partitions — Permanent	1[2]	1[2]	1[2]	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

[1]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.

[2]Fire retardant treated wood may be used in the assembly, provided fire-resistance requirements are maintained.

TABLE NO. 5-C Interior Wall and Ceiling Finish Ratings

Occupancy	Exits	Access to Exits	Other Spaces
Assembly—New	A	A or B	A or B
Assembly—Existing	A	A or B	A, B, or C
Educational—New	A	A or B	A or B
Educational—Existing	A	A or B	A, B, or C
Day Care Centers—New	A	A	A or B
Day Care Centers—Exist.	A or B	A or B	A or B
RCF/Care Homes Lodging	A or B	A, B, or C	A, B, or C
Health Care (ICF/SNF) —New	A	A	A, (B in small individual room)
Health Care (ICF/SNF) —Existing A or B	A or B	A or B	A or B
Residential, Hotels, Apartment & Dormitories	A	A or B	A, B, or C

Exposed portions of structural members complying with the requirements for heavy timber construction may be permitted.

Automatic Sprinklers—where a complete standard system of automatic sprinklers is installed, interior wall and ceiling finish with flame spread rating not over Class C may be used in any location where Class B is required and a rating of Class B in any location where Class A is required.

Any carpet installed on walls or ceilings shall be Class A and installed only where automatic sprinkler protection is provided.

Class A Interior Finish—Flame spread 0-25, smoke developed 0-450;
Class B Interior Finish—Flame spread 26-75, smoke developed 0-450;
Class C Interior Finish—Flame spread 76-200, smoke developed 0-450 when tested in accordance with National Fire Protection Association Standard No. 225, 1988.

TABLE NO. 5-D Carpet Specifications

The following applies to all newly applied carpet installed as floor covering in new and existing buildings. Carpet which was in compliance with the regulations in effect when it was installed may remain. These carpet specifications supersede all previously issued carpet specifications.

Occupancy	Exits	Access to Exits
Assembly	NR	NR
Educational	NR	NR
Day Care	I or II	I or II
Health Care	I	I
Residential — Hotels, Apartments, Dormitories	I or II	I or II

I = Class I Interior Floor Finish: minimum 0.45 watts per square centimeter (See Radiant Panel Test, NFPA 253 or ASTM E-648).

II = Class II Interior Floor Finish: minimum 0.22 watts per square centimeter Critical Radiant Flux (See NFPA 253 or ASTM E-648).

NR = Non-rated

In a building which is completely protected by an automatic fire sprinkler system Class II may be used in lieu of Class I and Non-rated carpet may be used in lieu of Class II.

These specifications apply only to carpet installed on floors. Any carpet installed on walls or ceilings shall have a Class A finish rating when tested in accordance with NFPA Standard No. 225 of ASTM E-84 and be installed only where automatic sprinkler protection is provided.

NOTE: The floor radiant panel provides a measure of a floor covering's tendency to spread flames when located in a corridor and exposed to the flame and hot gases from a room fire. The Flooring Radiant Panel Test method is to be used as a basis for estimating the fire performance of a floor covering installed in the building corridor. Floor coverings in open building spaces and in rooms within buildings merit no further regulation, providing it can be shown that the floor covering is at least as resistant to spread of flame as a material that will meet the federal flammability standard, FFI-70, Standard for the Surface Flammability of Carpets and Rugs (Pill Test). All carpeting sold in the U.S. since 1971 is required to meet this standard and, therefore, is not likely to become involved in a fire until a room reaches or approaches flashover. Therefore, no further regulations are necessary for carpet other than in exitways and corridors.

It has not been found necessary or practical to regulate interior floor finishes on the basis of smoke development.

661—5.106 to 5.229 Reserved.

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661—5.230(100) High-rise buildings. This rule establishes requirements relating to the installation of an automatic fire extinguishing system in high-rise buildings that are required by Iowa Code section 100.39.

5.230(1) *Definitions.* "Automatic fire extinguishing system" is an approved system of devices and equipment which automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire.

5.230(2) *Compliance.* Buildings that are required to be equipped with an automatic fire extinguishing system shall meet the standard for the "Installation of Sprinkler Systems," No. 13, 1987 edition of the National Fire Protection Association, together with its reference to other specific standards referred to and contained within the volumes of the National Fire Code, 1988 edition of the National Fire Protection Association, published in 1988.

A copy of these standards is available for review in the state fire marshal's office or may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

5.230(3) *Approval.* Plans for a building required to have an automatic fire extinguishing system shall be approved prior to construction. Approval shall be obtained from the fire marshal, a designee of the state fire marshal or the authority having jurisdiction.

Subject to the approval of the fire marshal, automatic fire extinguishing systems that use water may be omitted in rooms or areas where they are considered undesirable because of the nature of the contents. The fire marshal may require the use of another automatic extinguishing agent or the installation of an automatic detection system.

5.230(4) *Existing buildings.* Buildings or structures to which additions, alterations, or repairs are made shall comply with all of the requirements for new buildings or structures. Buildings in existence at the time of adoption of this code may have their existing use or occupancy continued, if this occupancy was legal at the time of the adoption of this code, and provided such continued use is not dangerous to life.

5.230(5) *Parking garages.* Open parking garages over four stories in height are exempt from automatic fire extinguishing requirements, provided they are of noncombustible construction and house no occupancy above the open parking garage.

NOTE: An open parking garage shall meet the definition and requirements as spelled out in the Uniform Building Code (1988 Edition), Section 709(b).

Any level which does not qualify as an open parking garage and all levels below shall have an approved automatic fire extinguishing system.

All other parking structures shall comply with the standards for "Parking Structures" No. 88A, 1985 Edition of the National Fire Protection Association.

This rule is intended to implement Iowa Code section 100.39.

661—5.231 to 5.249 Reserved.

[Filed 6/22/76, Notice 5/17/76—published 7/12/76, effective 8/16/76]
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*Tables published in 6/8/83 IAB

LIQUEFIED PETROLEUM GASES

661—5.250(101) Rules generally. The standards "NFPA 58 Standard for the Storage and Handling of Liquefied Petroleum Gases," 1992 edition, and "NFPA 54 National Fuel Gas Code," 1992 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, are hereby adopted by reference as the rules governing liquefied petroleum gases with the following amendments:

1. Delete section 1-6 and insert in lieu thereof the following:

1-6 Qualification of Personnel. All persons employed in handling LP-Gases shall be trained in proper handling and operating procedures, which the employer shall document.

2. Delete section 4-2.2.1 and insert in lieu thereof the following:

4-2.2.1 Containers shall be filled only by the owner or upon the owner's authorization. Transfer of LP-Gas to and from a container shall be accomplished only by qualified persons trained in proper handling and operating procedures meeting the requirements of 1-6 and in emergency response procedures.

This rule is intended to implement Iowa Code chapter 101.

661—5.251(101) Transfer into container. No person shall transfer any liquefied petroleum gas into a container, regardless of size, if the container has previously been used for the storage of any other product until the container has been thoroughly purged, inspected for contamination, provided with proper valves, and determined to be suitable for use as a container for liquefied petroleum gas as prescribed in the standards established under 5.250(101).

661—5.252(101) Prohibition of certain refrigerants.

5.252(1) "Mobile air conditioning system" means mechanical vapor compression equipment which is used to cool the driver or passenger compartment of any motor vehicle.

5.252(2) The distribution, sale or use of refrigerants containing liquefied petroleum gas, as defined in Iowa Code section 101.1, for use in mobile air conditioning systems, is prohibited.

661—5.253 to 5.274 Reserved.

[Filed August 21, 1957; amended January 15, 1960, June 22, 1962, August 19, 1970]
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LIQUEFIED NATURAL GAS

661—5.275(101) Rules generally. The "NFPA 59A Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)," 1990 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing liquefied natural gas.

This rule is intended to implement Iowa Code section 101.1.

661—5.276 to **5.299** Reserved.

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FLAMMABLE AND COMBUSTIBLE LIQUIDS CODE

661—5.300(101) Rules generally. The standard "NFPA 30 Flammable and Combustible Liquids Code," 1993 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing flammable and combustible liquids with the following amendments:

Delete subsection 2-3.8.1 and insert in lieu thereof the following:

2-3.8.1 Each connection to an aboveground tank through which liquid can normally flow shall be provided with an external control valve as close as practical to the shell of the tank. In addition to the control valve or any other normal tank valves there shall be an emergency internal check valve at each pipe connection to any tank opening below normal liquid level. The emergency internal check valve shall be effectively located inside the tank shell and shall be operable both manually and by an effective heat activated device which, in case of fire, will automatically close the valve to prevent the flow of liquid from the tank even though the pipe lines are broken from the tank.

EXCEPTION: Emergency internal check valves are not required on crude oil tanks in oil fields, on tanks at refineries, or on tanks at terminals which are equipped with a swing line or where facilities are provided to transfer the contents of the tank to another tank in case of fire.

Add the following Exception to section 2-3.3.1:

EXCEPTION: Control of spillage meeting 2-3.3.2 or 2-3.3.3 is not required for double-walled tanks when the system complies with either the U.S. Environmental Protection Agency Oil Pollution Control Act 40 CFR 112 or all of the following:

(a) The tank system shall have top only openings and shall be either an Underwriters Laboratories listed steel double-walled tank or an Underwriters Laboratories listed steel inner tank with an outer containment tank wall constructed in accordance with nationally accepted industry standards (e.g., those codified by the American Petroleum Institute, the Steel Tank Institute and the American Concrete Institute).

(b) The tank shall have overfill prevention which will alert the operator with an audible or visual alarm when the tank reaches not more than 90 percent capacity.

(c) The tank shall have automatic flow shutoff which will automatically stop product flow so that none of the fittings on the top of the tanks are exposed to product as a result of overfilling.

(d) The tank shall have automatic flow restriction which will restrict product flow when the tank reaches not more than 90 percent capacity.

(e) The tank fill opening shall be provided with a spill container which will hold at least 7 gallons.

(f) The interstitial tank space shall be monitored by an approved, continuous, automatic detection system that is capable of detecting liquids, including water.

661—5.301(101) Storage, and handling and use—plans approved.

5.301(1) Before any construction of new or replacement installations for the storage, handling or use of flammable or combustible liquids is undertaken in bulk plants, service stations and processing plants, drawings or blueprints made to scale shall be submitted in duplicate to the state fire marshal with an application for approval. Within a reasonable time after receipt of the application with drawings or blueprints, the state fire marshal will examine them and if the fire marshal finds that they conform to the applicable requirements of this chapter as written or as modified, shall signify approval of the application by endorsement or attachment, retain one copy for the files and return to the applicant all other copies. If the drawings or blueprints do not conform to the requirements of this chapter as written or modified, the fire marshal shall notify the applicant accordingly.

EXCEPTION: Plans for underground tank installations which have been approved in accordance with rule 591—15.6(455G) do not need to be submitted for approval.

5.301(2) If proposed construction or installation is to be located within a local jurisdiction which requires that a local permit be first obtained, the drawings or blueprints shall be submitted to the appropriate local official or body with the application for permit and then, except in case of dispute, need not be submitted to the state fire marshal. The local official or body, as a condition to the issuance of the permit, shall require compliance with the applicable requirements of this chapter as written or as modified. In the event of dispute as to whether the drawings or blueprints show conformity with the applicable requirements of this chapter the plans and drawings shall be submitted to the state fire marshal whose decision shall be controlling.

5.301(3) Drawings shall show the name of the person, firm or corporation proposing the installation, the location and the adjacent streets or highways.

5.301(4) In the case of bulk plants, the drawings shall show, in addition to any applicable features required under subrules 5.301(6), 5.301(7) and rule 5.313(101) with the exception of subrule 5.313(4), the plot of ground to be utilized and its immediate surroundings on all sides; complete layout of buildings, tanks, loading and unloading docks; and heating devices, if any.

5.301(5) In the case of service stations, the drawings, in addition to any applicable features required under subrules 5.301(6), 5.301(7) and rule 5.313(101) with the exception of subrule 5.313(4), shall show the plot of ground to be utilized; the complete layout of buildings, drives, dispensing equipment, greasing or washing stalls and the type and location of any heating device.

5.301(6) In the case of aboveground storage, the drawings shall show the location and capacity of each tank; dimensions of each tank the capacity of which exceeds 50,000 gallons; the class of liquid to be stored in each tank; the type of tank supports; the clearances; the type of venting and pressure relief relied upon and the combined capacity of all venting and pressure relief valves on each tank and the tank control valves and the location of pumps and other facilities by which liquid is filled into or withdrawn from the tanks.

5.301(7) In the case of underground storage, the drawings shall show the location and capacity of each tank; class of liquids to be stored; and the location of fill, gauge, vent pipes, openings and clearances.

5.301(8) In the case of an installation for storage, handling or use of flammable or combustible liquids within buildings, or enclosures at any establishment or occupancy covered in this chapter, the drawing shall be in such detail as will show whether applicable requirements are to be met.

5.301(9) Rescinded IAB 11/22/95, effective 1/1/96.

661—5.302(101) Tank valves. Rescinded IAB 3/17/93, effective 5/1/93.

661—5.303(101) Bulk plants. Property shall be kept free from weeds, high grass, rubbish and litter, and shall be kept neat, clean and orderly throughout.

661—5.304(101) Motor vehicle and aircraft fuel dispensing.

5.304(1) Except as allowed by rule 661—5.305(101), the standard "NFPA 30A Automotive and Marine Service Station Code," 1993 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing dispensing motor vehicle fuel into the fuel tanks of motor driven vehicles with the following amendments:

a. Rescinded IAB 11/22/95, effective 1/1/96.

b. Add a new subsection 2-4.2.3 to read as follows:

2-4.2.3 Tanks having a capacity of not more than 6,000 gallons for motor vehicle fuel dispensing systems that comply with 9-3.5 shall be located at least:

a. 40 feet from the nearest important building on the same property;

b. 40 feet away from any property that is or may be built upon, including the opposite side of a public way;

c. 100 feet away from any residence or place of assembly;

EXCEPTION: All distances may be reduced by 50 percent for tanks installed in vaults that comply with 2-4.4, UL listed aboveground double-walled tanks that have a two-hour fire-resistive rating or Approved UL listed aboveground steel tanks encased with a 6-inch thick reinforced concrete shell.

c. Add a new subsection 5-2 to read as follows:

5-2 Basements.

5-2.1 No basement or excavation shall be constructed under any service station building.

5-2.2 Basements in existing service station buildings shall be eliminated or converted to meet 5-1 when extensive remodeling or renovation of the structure takes place.

5.304(2) The standard "NFPA 407 Standard for Aircraft Fuel Servicing," 1990 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing ground fuel servicing of aircraft with liquid petroleum fuel.

5.304(3) to **5.304(5)** Rescinded IAB 3/17/93, effective 5/1/93.

661—5.305(101) Storage in isolated areas. The standard "NFPA 395 Standard for the Storage of Flammable and Combustible Liquids on Farms and Isolated Construction Projects," 1988 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing flammable and combustible liquids on farms and isolated construction projects.

661—5.306(101) Minimum rules for above ground gasoline and diesel fuel tanks and dispensing at service stations located in cities of 1000 or less population. Rescinded IAB 6/12/91, effective 5/17/91.

661—5.307(101) Reporting of existing and new tanks—fees.

5.307(1) All existing, new, replacement and out-of-service aboveground tanks of 1101 gallon capacity or greater shall be registered with the state fire marshal. This includes aboveground tanks storing regulated substances as defined in 40 Code of Federal Regulations, Parts 61 and 116, and Section 401.15, July 1, 1988, including, but not limited to, petroleum which includes crude oil, heating oil offered for resale, motor fuels and oils such as gasoline, diesel fuels and motor oil.

5.307(2) The registration notice shall be accompanied by a fee of $10 for each tank. Fees must be in the form of a check or money order payable to the Treasurer, State of Iowa. No cash will be accepted.

5.307(3) A late fee of $25 per tank shall be imposed for failure to register the tanks within the guidelines of Iowa Code section 101.102.

5.307(4) Upon receipt of the required registration form and fees, a separate tag or decal for each tank and a copy of the registration form shall be returned to the sender. The tag or decal must be attached to the fill pipe within one foot of where it connects to the tank. Where such installation is impracticable, the tag or decal may be applied to the fill pipe within one foot of where the transport connection is made or to the tank within one foot of the fill pipe.

Rules 5.306 and 5.307 are intended to implement Iowa Code chapter 101.

661—5.308 and **5.309** Reserved.

661—5.310(101) Safety.

5.310(1) Premises shall be kept clean, and free from oil and grease, rubbish, or trash. Only approved water solutions, or detergents, floor sweeping compounds and grease absorbents shall be used for cleaning floors.

5.310(2) Cleaning of parts, in, or around, the service station shall be done with nonflammable solvent except that a flammable solvent with a flash point above 100°F may be used for the purpose provided adequate ventilation is supplied and no sources of ignition are present in the cleaning area.

5.310(3) No dwelling unit or facilities for the attendant shall be maintained in or on the premises of any self-service station closer than 100 feet from Class I or 50 feet from Class II flammable liquid dispensing devices.

661—5.311(101) Underground leakage of flammable and combustible liquids. The standard of "Underground Leakage of Flammable and Combustible Liquids," No. 329, 1987 edition of the National Fire Protection Association, and the following rule entitled "Testing underground tanks," shall be the rules governing underground leakage of flammable and combustible liquids in the state of Iowa.

661—5.312(101) Testing underground tanks. Air tests of underground tanks or piping containing product shall not be permitted.

661—5.313(101) Observation wells. Observation wells may be required on new and existing tanks when a high environmental risk exists or in the event of suspected tank failure or leakage. When installed pursuant to this rule, observation wells shall meet the following requirements and shall be:

1. A minimum of 4 inches in diameter and adequately identified to avoid confusion with product fill openings.
2. Installed to a depth of 24 inches below the tank bottom or to the top of the concrete slab, if used for anchoring.
3. Installed with pipe section having 0.020-inch maximum slots with the slots extending to within approximately 12 inches of grade.
4. Capped and protected from traffic.

661—5.314(101) Crankcase drainings. Rescinded IAB 11/22/95, effective 1/1/96.

661—5.315 to 5.349 Reserved.

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OIL BURNING EQUIPMENT

661—5.350(101) Rules generally. The standard, "NFPA 31 Installation of Oil Burning Equipment," 1992 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing oil burning equipment in the state of Iowa.

661—5.351 to 5.399 Reserved.

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EDITOR'S NOTE: Subrule 5.305(3) which was delayed 70 days from November 8, 1979, is renumbered and amended at 5.305(2) to be effective January 17, 1980. Subrule 5.305(2) renumbered as 661—5.305(100), 7/15/87.

*Effective date of 5.300, 5.301(6), 5.301(7), 5.302, 5.304(2)"c"(2), 5.304(3), 5.304(4), 5.305, 5.350 and 5.351 delayed by the Administrative Rules Review Committee 70 days.

STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS ON FARMS AND ISOLATED CONSTRUCTION PROJECTS

661—5.400(101) Rules generally. The standard, "NFPA 37 Installation and Use of Stationary Combustion Engines and Gas Turbines," 1990 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing the installation and use of stationary combustion engines and gas turbines in the state of Iowa.

661—5.401 to **5.449** Reserved.

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TRANSPORTATION AND DELIVERY OF FLAMMABLE AND COMBUSTIBLE LIQUIDS BY TANK VEHICLES

661—5.450(101) Rules generally. The standard, "NFPA 385 Standard for Tank Vehicles for Flammable and Combustible Liquids," 1990 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing the transportation of flammable and combustible liquids in tank vehicles in the state of Iowa.

This rule is intended to implement Iowa Code chapter 101.

661—5.451 to **5.499** Reserved.

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CHILD CARE CENTERS

661—5.500(100) Definitions. The following definitions apply to rules 661—5.500(100) to 661—5.549.

"Approved" is defined as being acceptable to the state fire marshal.

"Approved equipment and material" shall mean any equipment or material tested and listed by a nationally recognized testing laboratory.

"Approved standards" shall mean any standard or code prepared and adopted by a nationally recognized association.

"Attic," when used in these standards, shall mean the space between the ceiling beams of the top habitable story and the roof rafters.

"Automatic," as applied to a door, window or other protection for an opening shall mean that such door, window or other protection is so constructed and arranged that if open it will close when subjected to a predetermined temperature or rate of temperature rise.

"Automatic sprinkler system" shall mean an arrangement of piping and sprinkler designated to operate automatically by the heat of fire and to discharge water upon the fire, according to the standards of the National Fire Protection Association.

"Basement" or cellar for these regulations shall mean that part of a building where the finish floor is more than 30 inches below the finish grade at the building.

"Child occupied areas" used in this regulation for purposes of area separation, means of egress and use, as that area used for sleeping, dining, activity and educational purposes and other areas subject to occupancy by children.

"Combustible" shall mean capable of undergoing combustion.

"Combustible or hazardous storage area of room" shall mean those areas containing heating apparatus and boiler rooms, basements or attics used for the storage of combustible material, flammable liquids, workrooms such as kitchen, laundry, handicraft shops, carpenter shops, paint shops, and upholstery shops, central storerooms such as furniture, mattresses and miscellaneous storage, and similar occupancies intended to contain combustible material which will either be easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

"Existing center" is that which is already in existence at the date these rules go into effect.

"Exit" is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in these regulations to provide a protected way of travel to the exit discharge.

"Exit access" is that portion of a means of egress which leads to an entrance to an exit.

"Exit discharge" is that portion of a means of egress between the termination of an exit and a public way.

"Fire door" shall mean a door and its assembly, so constructed and assembled in place as to give protection against the passage of fire, equal to surrounding construction.

"Fire extinguisher rating" shall be as stated in National Fire Protection Association pamphlet No. 10.

"Fire marshal" means the state fire marshal, any of the state fire marshal's staff, or assistant state fire inspectors, carrying authorized cards signed by the state fire marshal.

"Fire partition" shall mean a partition which subdivides a story of a building to provide an area of refuge or to restrict the spread of fire for a minimum of one hour.

"Fire resistive" shall mean that property of materials or assemblies which prevents or retards the passage of excessive heat, hot gases or flames under condition of use. The term "fire resistive" shall mean the same as "fire resistance."

"Fire-resistance rating" shall mean the time in hours or fractions thereof that materials or their assemblies will resist fire exposure as determined by fire tests conducted in compliance with approved standards.

"Fire wall" shall mean a wall of brick or reinforced concrete having adequate fire resistance and structural stability under fire conditions to accomplish the purpose of completely subdividing a building or of completely separating adjoining building to resist the spread of fire. A fire wall shall extend continuously through all stories from foundation to or above the roof.

"Floor area net" shall be the actual occupied area not including accessory unoccupied areas or thickness of walls.

"Interior finish material" shall be classified in accordance with the method of tests of surface burning characteristics of building material National Fire Protection Association Standard No. 255, Test Methods, Surface Burning—Building Materials, 1969. Classification of interior finish material shall be in accordance with tests made under conditions simulating actual installations, provided that the state fire marshal may by rule establish the classification of any material on which a rating by standard test is not available. Interior finish material shall be grouped in the following classes in accordance with their flame spread and related characteristics.

Class A. Interior finish flame spread 0-25.

Class B. Interior finish flame spread 25-75.

Class C. Interior finish flame spread 75-100.

"Mixed occupancy" shall mean when the building is used for more than one occupancy purpose.

"Panic hardware" shall cause the door latch to release when pressure of not to exceed 15 pounds is applied to the releasing devices in the direction of exit travel. Such releasing devices shall be bars or panels extending not less than two-thirds of the width of the door and placed at height not less than 30 nor more than 44 inches above the floor. Only approved panic hardware shall be used on exit doors.

"Self-closing" shall mean to be equipped with an approved device which will ensure closing after having been opened.

"Sprinklered" shall mean to be completely protected by an approved system of automatic sprinklers installed and maintained in accordance with approved standards.

"State fire marshal" shall mean the chief officer of the division of fire protection as described in Iowa Code section 100.1 or one authorized to act in the state fire marshal's absence.

"Story" shall mean that part of a building comprised between a floor and ceiling or roof next above. The first story shall be that story which is of such height above the ground that it does not come within the definition of a basement or cellar.

"Types of construction" shall be defined in National Fire Protection Association, pamphlet No. 220, published in 1985.

"Unduly endanger" shall mean beyond a normal limit bring into danger or peril.

661—5.501(100) Child care centers in mixed occupancies.

5.501(1) *"Application—mixed occupancy."* All child care centers seeking licenses under Iowa Code chapter 237A, located in mixed occupancies shall meet the requirements of the primary use and occupancy of the building as promulgated by the state fire marshal. If no such rules exist the following shall be complied to and the area used for child care shall comply as per number of children occupying the center at any given time.

5.501(2) *"Mixed occupancy."*

a. *"Not meeting codes."* In facilities not meeting nationally recognized codes for child care centers the minimum division between the child occupied area and other areas shall be a one-hour fire partition and the perimeter protected with an approved fire detection or automatic extinguishing system as directed by the fire marshal. Less than a one-hour partition may be accepted when the fire marshal approves adequate perimeter protection.

b. *"Meeting recognized codes."* Where child care centers are located in a building containing mixed occupancies, the separation requirements of a nationally recognized code are satisfied, it shall be considered as complying to the section above.

c. *"Undue danger."* Child care centers shall not be in buildings of mixed occupancies where the acts of other occupants could unduly endanger the lives of the children in the child care center.

661—5.502(100) Child care centers for seven or more children.

5.502(1) *"Application."*

a. *"Life safety requirements."* This section establishes life safety requirements for child care centers in which seven or more children receive care.

b. *"Regulations shall apply to all centers."* These subrules of the regulations shall apply to all centers. These regulations shall constitute the minimum requirements for centers for approval by the state fire marshal's office. Further, and more stringent, requirements may be required by other governmental divisions, or subdivisions, as a requirement for participation in various programs, or to comply with local codes and regulations.

c. *"Time for compliance."* In existing childcare centers a reasonable time shall be allowed for compliance with any part of this rule, commensurate with the magnitude of the expenditure and the disruption of services. When alternate protection is installed and accepted the center shall be considered as conforming for the purposes of these regulations.

d. *"Additions or structural alterations."* Additions or structural alterations to existing facilities must have written approval from the state fire marshal, and working plans and specifications must be submitted for review and approval.

5.502(2) *"Exit details."*

a. *"Number of exits."* Each floor occupied by children shall have not less than two approved remote means of egress. Additional exits shall be determined by the number of occupants.

b. *"Basement exits."* Where children are located below the floor of exit discharge (basement) at least one exit directly to the outside to ground level shall be provided. No center shall be located more than one story below the ground. Any stairway to the floor above shall be cut by a fire barrier containing a rated door of at least 20-minute fire protection or a minimum of 1¾-inch solid bonded wood core. They shall be equipped with a self-closing device and positive latch.

c. *"Types of exits."* Exits shall be of the following types or combinations thereof as defined by the National Fire Protection Association. At least two exits of the below types, remote from each other, shall be provided for every story or section of the building. At least one exit in every story or section shall be of type 2, 3, 4, 5, or 6 as listed below. Exterior fire escape stairs, minimum of 44 inches in width, may be accepted as a second means of exit.

(1) Horizontal exits.

(2) Doors leading directly outside the buildings (without stairs).

(3) Ramps.

(4) Stairways, or outside stairs.

(5) Seven-foot spiral slides. Approved only where installed prior to effective date of these regulations.

(6) Smoke towers.

d. *"Direct exits."* At least one required exit from each floor shall lead directly or through an enclosed corridor, to the outside. A second or third required exit, where a more direct exit is impractical, may lead to a first floor lobby having ample and direct exit to the outside.

e. *"Exit doors shall not be locked."* Exit doors shall not be locked against egress by bolt, key locks, hooks or padlocks. A latch type lock is permissible that locks against the outside entrance.

5.502(3) *"Doors."*

a. *"Size."* Each door in a means of egress shall not be less than 30 inches wide, 6 feet in height and reasonably covering the opening. If a door has a latch and is used by more than 50 people it shall be equipped with panic hardware.

b. *"Closet doors."* Every closet door latch shall be such that children can open the door from the inside of the closet.

c. *"Emergency unlocking."* Every door lock, except exit discharge, shall be designed to permit opening of the locked door from the outside in an emergency, and the opening device shall be readily accessible to the staff.

d. *"Doors protecting vertical openings."* The doorway between the floor of exit discharge and any floor below shall be equipped with a self-closing labeled door of at least a 20-minute fire protection rating or a 1¾-inch solid bonded wood core door.

5.502(4) *"Interior finish."* Interior finish in exits in child occupied spaces in the center shall be Class A in new centers and A or B in existing centers. See Table No. 5-C following 5.105(100).

5.502(5) *"Detection and extinguishing systems when needed."* Detection and extinguishing systems shall comply to the following chart in regard to construction and number of stories.

a. *"Chart for detection and extinguishing systems—when needed."*

		Number of stories				
Type of Construction	Number of Children	1	2	3	4	5 or more
Fire Resistive and Protected Noncombustible	7-15	4	2	2	2	2
	16 or more	3	2	2	2	2
Protected Wood Frame and Protected Ordinary	7-15	4	2	1	NP	NP
	16 or more	3	2	1		
Heavy Timber	7-15	4	2	1	NP	NP
	16 or more	3	2	1		
Unprotected Noncombustible	7-15	4	2	1	NP	NP
	16 or more	3	2	1		
Unprotected Wood Frame and Unprotected Ordinary	7-15	4	NP	NP	NP	NP
	16 or more	2				

Note 1—Sprinkler; Note 2—Complete Automatic Detection; Note 3—Manual Alarm; Note 4—Single Station Smoke Detection; Note 5—NP Not Permitted

"EXCEPTION:" Buildings where classrooms have a direct exit door to the outside are not required to have complete automatic detection. A manual alarm or single-station detector will be satisfactory.

b. "Approved sprinkler system." Any required automatic sprinkler system shall be in accordance with approved standards for systems in light hazard occupancies, and shall be electrically interconnected with the manual fire alarm system. The main sprinkler control valve shall be electrically supervised so that at least a local alarm will sound when the valve is closed.

c. "Complete automatic detection system." Requirements for automatic fire detection systems shall meet the following standards.

(1) Automatically detect a fire.

(2) Sound alarm signal throughout the premises for evacuation purposes.

(3) Provide assurance the system is in operating condition by electric supervision.

(4) Underwriters Laboratories listed equipment to be used throughout the system.

(5) Provide a manual test switch and tested monthly and noted for inspection purposes.

(6) Installation of equipment and wiring shall be in a neat and workmanship like manner.

(7) To include smoke, or products of combustion, detection devices when required by the fire marshal.

(8) Properly located manual alarm stations.

(9) Where fire detection systems are installed to meet the requirements of this regulation, they shall be approved electrically supervised systems. Detectors shall be approved combined rate of rise and fixed temperature type detectors 135°F, or smoke, or products of combustion type, and properly installed. In spaces where high temperature is normal, devices having a higher operating point may be used. Operation of a detection or alarm shall cause an alarm which is audible throughout the center. In existing centers where "fixed temperature only detectors" are already installed, they need not be replaced until such time that a new head needs to be installed. Detector units shall be installed in every room and concealed area of the child care center.

d. "Single station detectors." Every single station detector of product of combustion other than heat shall be mounted on the ceiling or wall at a point of central location in the corridor or in child occupied areas. No detector shall be mounted less than 12 inches of ceiling level. Care shall be exercised to ensure the installation will not interfere with the operating characteristics of the detectors. When activated the detector shall provide an alarm. The detectors shall be tested monthly by the operator of the center or the operator's designee and a record kept for inspection purposes.

e. "Manual fire alarms."

(1) "Installation." Manual fire alarm stations shall be provided on each floor and so located that the alarm station is not more than 75 feet from any area within the building. Horns or bells that provide a distinctive sound different from any other bell system shall be provided that will give audible warning to all occupants of the building in case of a fire or other emergency. A test system shall be provided for the purpose of conducting fire drills and tests of the alarm system.

(2) "Approval of systems." Factory Mutual or Underwriters Laboratories, Inc., equipment and component parts shall be used in the installation of the fire alarm system. The electrical energy for the fire alarm system shall be on a separate circuit and shall be taken off the utility service to the center building ahead of the entrance disconnect.

(3) "Extension of system." Whenever the fire marshal determines it advisable, it may be required that the fire alarm system be extended or designed to provide automatic fire detection devices in unsupervised areas, boiler rooms, storerooms and shop areas.

(4) "Mounting." Each station shall be securely mounted. The bottom of each station will be not less than 4½ feet and not more than 6 feet above the floor level.

(5) "Location." Manual fire alarm boxes shall be distributed throughout the protected area so that they are unobstructed, readily accessible, and located in the normal path of exit from the area.

5.502(6) *"Fire drills."* Fire drills shall be held at least once a month and recorded. A fire emergency plan shall be written and posted in a conspicuous place.

5.502(7) *"Extinguishers."* Each child occupied area shall be protected by a Class "A" fire extinguisher 2A rating, and in areas where heating or cooking units are used there shall be a "5" lb. BC extinguisher 2B rating.

5.502(8) *"Heating equipment."*

a. *"Location."* No furnace, space heater or portable heater shall be located in child occupied areas. EXCEPTION: Approved suspended unit heaters may be used, except in means of egress and sleeping areas, provided such heaters are located high enough to be out of the reach of persons using the area and provided they are equipped with the proper safety devices. Fireplaces may be used providing the fireplace is equipped with a heat tempered glass fireplace enclosure guaranteed against breakage up to a temperature of 650°F. If, in the opinion of the fire marshal, special hazards are present, a lock on the enclosure and other safety precautions may be required.

b. *"Combustion air."* If solid partitions are used to provide the separation of the furnace room from other areas, provision for outside air shall be made to assure adequate combustion for the heating unit.

5.502(9) *"Floor coverings."* For carpet see Table No. 5-D following 5.105(100). Wall hangings and window treatments shall be flame-retardant or rendered flame-retardant.

5.502(10) *"Maintenance."*

a. *"Regular and proper maintenance."* Regular and proper maintenance of electric service, heating plants, alarm systems, sprinkler systems, fire doors and exit facilities shall be accomplished.

b. *"Storerooms."* Storerooms shall be maintained in a neat and proper manner at all times.

c. *"Excessive storage."* Excessive storage of combustible materials such as paper cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

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661—5.503 to **5.549** Reserved.

HEALTH CARE FACILITIES
Residential Care Facility

661—5.550(100) Definitions. The following definitions apply to rules 661—5.550(100) to 661—5.599:

5.550(1) *"Health care facility"* or *"facility"* means any residential care facility required to be licensed by the Iowa department of inspections and appeals in accord with Iowa Code chapter 135C.

5.550(2) *"Residential care facility"* means any institution, place, building or agency providing for a period exceeding 24 consecutive hours accommodations, board, personal assistance and other essential daily living activities to three or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.

5.550(3) *Application.* These rules shall constitute the minimum requirements for facilities for approval by the state fire marshal's office. Further, and more stringent requirements may be required by other governmental divisions, or subdivisions, as requirement for participation in various programs, or to comply with local codes and regulations.

5.550(4) *"Resident"* means an individual admitted to a health care facility in the manner prescribed by Iowa Code section 135C.23. An employee of, or an individual related within the third degree of consanguinity to the administrator or owner of, a health care facility shall not be deemed a resident thereof for the purposes of this chapter solely by reason of being provided living quarters within such facility.

5.550(5) The term *"ambulatory"* when used in these standards shall mean a person who immediately and without aid of another, is physically or mentally capable of walking a normal path to safety including the ascent and descent of stairs.

5.550(6) The term *"nonambulatory"* when used in these standards shall mean a person who immediately and without aid of another is not physically or mentally capable of walking a normal path to safety including the ascent and descent of stairs.

5.550(7) *Competent.* Having sufficient physical and mental ability to react to an emergency and put into operation a plan for evacuation and extinguishment.

5.550(8) *"State fire marshal"* shall mean the chief officer of the division of fire protection as described in Iowa Code section 100.1 or one authorized to act in the state fire marshal's absence.

5.550(9) *"Fire marshal"* shall mean the state fire marshal, any of the fire marshal's staff, or "assistant state fire inspectors," carrying authorized cards signed by the state fire marshal.

5.550(10) The term *"combustible"* shall mean capable of undergoing combustion.

5.550(11) The term *"combustible or hazardous storage area or room"* shall mean those areas containing heating apparatus and boiler rooms, basements or attics used for the storage of combustible material, flammable liquids, workrooms such as carpenter shops, paint shops and upholstery shops, central storerooms such as furniture, mattresses and miscellaneous storage, and similar occupancies intended to contain combustible materials which will either be easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

5.550(12) The term *"automatic"* as applied to a door, window or other protection for an opening shall mean that such door, window or other protection is so constructed and arranged that if open it will close when subjected to a predetermined temperature or rate of temperature rise, or products of combustion.

5.550(13) The term *"flammable liquid"* shall mean any liquid which is governed by the rules promulgated by the state fire marshal under the state of Iowa laws governing the handling, storage and transportation of flammable liquids.

5.550(14) The term *"approved"* when used in these standards shall mean acceptable to the state fire marshal.

a. *"Approved standards"* shall mean any standard or code prepared and adopted by any nationally recognized association.

b. *"Approved equipment and material"* shall mean any equipment or material tested and listed by a nationally recognized testing laboratory.

c. *"Approved"* is defined as being acceptable to the state fire marshal. Any equipment, device or procedure which bears the stamp of approval or meets applicable standards prescribed by an organization of national reputation such as the Underwriters Laboratories, Inc., Factory Mutual Laboratories, American Society for Testing Materials, American Insurance Association, National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in these regulations shall be deemed acceptable to the state fire marshal.

5.550(15) *"Types of construction"* shall be as defined in National Fire Protection Association Pamphlet No. 220, published in 1985.

5.550(16) A *"story"* shall mean that part of a building comprised between a floor and the ceiling next above. The first story shall be that story which is of such height above the ground that it does not come within the definition of a basement or cellar. However, if part of a basement qualifies for patient area, it shall be considered the first story.

5.550(17) The term *"attic"* when used in these standards shall mean the space between the ceiling beams of the top habitable story and the roof rafters.

5.550(18) A *"basement"* or cellar, for these regulations, shall mean that part of a building where the finish floor is more than 30 inches below the finish grade of the building.

5.550(19) *"Exit"* is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in these regulations to provide a protected way of travel to the exit discharge.

5.550(20) *"Exit access"* is that portion of a means of egress which leads to an entrance to an exit.

5.550(21) *"Exit discharge"* is that portion of a means of egress between the termination of an exit and a public way.

5.550(22) The term *"fire partition"* shall mean a partition which subdivides a story of a building to provide an area of refuge or to restrict the spread of fire for a minimum of one hour.

5.550(23) The term *"fire door"* shall mean a door and its assembly, so constructed and assembled in place as to give protection against the passage of fire, equal to surrounding construction.

5.550(24) The term *"fire-resistance"* shall mean that property of materials or assemblies which prevents or retards the passage of excessive heat, hot gases or flames under condition of use. The terms "fire-resistant" and "fire-resistive" shall mean the same as "fire-resistance."

5.550(25) The term *"fire-resistance rating"* shall mean the time in hours or fractions thereof that materials or their assemblies will resist fire exposure as determined by fire tests conducted in compliance with approved standards.

5.550(26) The term *"fire wall"* shall mean a wall of approved material having adequate fire-resistance and structural stability under fire conditions to accomplish the purpose of completely subdividing a building or of completely separating adjoining buildings to resist the spread of fire. A fire wall shall extend continuously through all stories from foundation to or above the roof.

5.550(27) The term *"sprinklered"* shall mean to be completely protected by an approved system of automatic sprinklers installed and maintained in accordance with approved standards.

5.550(28) The term *"automatic sprinkler system"* shall mean an arrangement of piping and sprinklers designed to operate automatically by the heat of fire and to discharge water upon the fire, according to the standards of the National Fire Protection Association.

5.550(29) *Interior finish.* See Table 5-C following 661—5.105(100).

661—5.551 Rescinded May 25, 1977.

661—5.552(100) Residential care facilities.

5.552(1) *Classification.*

a. Frame or ordinary construction not over two stories in height: Class 1A shall include 15 or fewer residents and shall be equipped with an approved automatic fire detection and alarm system. Class 2A shall include 16 or more residents and shall be equipped with an approved automatic sprinkler system.

b. One-hour protected frame construction:

Class 1B shall be one story only and be equipped with an approved automatic fire detection and alarm system.

Class 2B shall be two story, with 20 or less residents, and shall be equipped with an approved automatic fire detection and alarm system. Homes with 21 or more residents shall be equipped with an approved automatic sprinkler system.

c. Noncombustible construction:

Class 1C shall be one- or two-story homes and shall be equipped with an approved automatic fire detection and alarm system.

Class 2C shall be more than two stories and shall be equipped with an approved automatic sprinkler system.

d. Fire-resistive construction any height:

Class 1D shall be fire-resistive construction, any height, and shall be equipped with an approved automatic fire detection and alarm system.

e. New, or additional, construction, or structural alterations, shall be approved by the state fire marshal prior to work being started. Preliminary plans may be submitted for review. Working plans and specifications shall be submitted to the state fire marshal for review and approval. Written approval by the state fire marshal shall be required prior to construction.

f. Rescinded IAB 3/17/93, effective 5/1/93.

5.552(2) *Floor areas.*

a. All floors having a maximum occupancy above 30 persons, shall be divided into two sections by a one-hour fire wall or fire partition with ample room on each side for the total number of beds on each floor.

b. Corridor length between smokestop partitions, horizontal exits, or from either to the end of the corridor shall not exceed 150 feet on any resident occupied sleeping floor.

c. Any smokestop partition shall have at least a one-hour fire-resistance rating and shall be continuous from wall to wall and floor to floor or roof arch above. Openings in a smokestop partition shall be protected by fixed wire glass panels in steel frames, maximum size of 1,296 square inches each panel or by 1¾-inch solid core wood doors with vision panel in each door, wire glass not over 720 square inches. Such doors shall be self-closing or may be so installed that they may be kept in an open position provided they meet the requirements of paragraph *"d."* Doors in smokestop partitions are not required to swing with exit travel. Ample space shall be provided on each side of the barrier for the total number of occupants on both sides.

d. Any door in a fire separation, horizontal exit or a smokestop partition may be held open only by an approved electrical device. The device shall be so arranged that the operation of the required detection, alarm, or sprinkler system will initiate the self-closing action.

e. Every interior wall and partition in buildings of fire-resistive and noncombustible construction shall be of noncombustible materials.

f. Every resident sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and to permit any occupant to have access to fresh air in case of emergency. Sill height not to exceed 36 inches above floor.

g. Interior finish in exit shall be Class A or B. See Table No. 5-C, following 661—5.105(100).

5.552(3) *Exit details.*

a. Exits shall be of the following types or combinations thereof as defined by the National Fire Protection Association:

(1) Horizontal exits.

(2) Doors leading directly outside the buildings (without stairs).

(3) Ramps.

(4) Stairways, or outside stairs.

(5) Seven-foot spiral slides. Approved only where installed prior to effective date of these regulations.

(6) Exit passageways.

(7) Smoke towers.

b. At least two exits of the above types, remote from each other, shall be provided for every floor or section of the building. At least one exit in every floor or section shall be of type 2, 3, 4, 6 or 7, as listed above. Exterior fire escape stairs may be accepted as a second means of exit.

c. At least one required exit from each floor, resident occupied, above or below the first floor shall lead directly or through an enclosed corridor, to the outside. A second or third required exit, where a more direct exit is impracticable, may lead to a first floor lobby having ample and direct exits to the outside.

d. Travel distance (1) between any room door intended as exit access and an exit shall not exceed 100 feet; (2) between any point in a room and an exit shall not exceed 150 feet; (3) between any point in a resident occupied sleeping room or suite and an exit access door of that room or suite shall not exceed 50 feet. The travel distance in (1) or (2) above may be increased by 50 feet in buildings completely equipped with an automatic fire extinguishing system.

e. Exit doors shall not be locked against the egress by bolts, key locks, hooks or padlocks. A latch type lock is permissible that locks against outside entrance. Panic hardware shall be installed on exit doors of facilities with over 30 residents.

EXCEPTION: Special locking arrangements complying with Exception 3 to subrule 5.53(3) may be permitted provided not more than one such device is located in any egress path.

Door locking arrangements permitted under this exception must be approved in writing by the state fire marshal. This approval may be revoked for cause at any time.

5.552(4) *Construction and arrangement.* One of the two or more required exits shall be not less than 44-inch wide stairway. The minimum clear width of any additional required stairway shall be not less than 30 inches.

5.552(5) *Access.*

a. Every sleeping room, unless it has a door opening to the ground level, shall have an exit access door leading directly to a corridor which leads to an exit. One adjacent room such as a sifting or anteroom may intervene if all doors along the path of exit travel are equipped with nonlockable hardware.

b. Any required aisle, corridor or ramp shall be not less than 36 inches in clear width when serving as means of egress from resident sleeping rooms.

c. Corridors and passageways to be used as a means of exit, or part of a means of exit, shall be unobstructed and shall not lead through any room or space used for a purpose that may obstruct free passage. Corridors and passageways which lead to the outside from any required stairway shall be enclosed as required for stairways.

d. All rooms must be equipped with a door. Divided doors shall be of such type that when the upper half is closed, the lower section shall close.

(1) All doorways to resident occupied spaces, and all doorways from resident occupied spaces, and the required exits shall be no less than 32 inches in width; 30-inch doors may be accepted in existing homes.

(2) Doors to resident rooms shall swing in, unless fully recessed, except any room accommodating more than four persons shall swing with exit travel.

(3) Residential type of occupancy room doors may be lockable by the occupant if they can be unlocked on the corridor side, and keys are carried by attendants at all times.

(4) Doors to basements, furnace rooms and hazardous areas shall be kept closed and marked "FIRE DOOR—PLEASE KEEP CLOSED."

(5) All resident rooms must be equipped with a full door, at least 1¾ inches bonded solid core wood, or equivalent.

5.552(6) *Protection of vertical openings.*

a. Each stairway between stories shall be enclosed with partitions having a one-hour fire-resistance rating, except that where a full enclosure is impractical, the required enclosure may be limited to that necessary to prevent a fire originating in any story from spreading to any other story.

b. All doorways in stairway enclosures or cutoff shall be provided with approved self-closing fire doors, except that no such doors shall be required for doorways leading directly outside the buildings, and all doors shall be kept closed unless held open by an approved electrical device, actuated by an approved smoke detection device located at top of stairwell, and connected to alarm system.

c. Any elevator shaft, light and ventilation shaft, chute, and other vertical opening between stories shall be protected as required above for stairways.

5.552(7) *Sprinkler system.*

a. Automatic fire extinguishing protection when required in 5.552(1) shall be in accordance with approved standards for systems in light hazard occupancies, and shall be electrically interconnected with the manual fire alarm system. The main sprinkler control valve shall be electrically supervised so that at least a local alarm will sound when the valve is closed.

b. The sprinkler piping for any isolated hazardous area which can be adequately protected by a single sprinkler may be connected directly to a domestic water supply system having a flow of at least 22 gallons per minute at 15 pounds per square inch residual pressure at the sprinkler. An approved shut-off valve shall be installed between the sprinkler and the connection to the domestic water supply.

5.552(8) *Fire detection and alarm system.*

a. There shall be an automatic fire detection system in all boarding homes except where there is a sprinkler system which shall include an approved manual fire alarm system.

b. Requirements for automatic fire detection systems. The system shall meet the following standards:

(1) Automatically detect a fire.

(2) Indicate at a central supervised point, the location of the fire.

(3) Sound alarm signal throughout the premises for evacuation purposes.

(4) Provide assurance the system is in operating condition by electric supervision.

(5) Provide auxiliary power supply in the event of main power failure.

(6) Underwriters Laboratory listed equipment to be used throughout system.

(7) Provide a manual test switch.

(8) Installation of equipment and wiring shall be in a neat and workmanship-like manner, according to manufacturer's instructions.

(9) Shall be tested by competent person at least semiannually. Date of test and name noted.

(10) To include smoke, or products of combustion, detection devices as required by any section of these regulations.

(11) Properly located manual alarm stations.

c. Where fire detection systems are installed to meet the requirements of this regulation, they shall be approved electrically supervised systems protecting the entire building, including unoccupied spaces such as attics. Detectors shall be approved combined rate of rise and fixed temperature type detectors, 135°F, or smoke or products of combustion type, and be properly installed. In spaces where high temperature is normal, devices having a higher operating point may be used. Operation of a detection or alarm device shall cause an alarm which is audible throughout the building. In existing homes where "fixed temperature only type detectors" are already installed they need not be replaced until such time that a new head needs to be installed.

d. Smoke, or products of combustion other than heat, detectors shall be installed at strategic locations such as corridors, hallways or stairways. The confirmation of compliance with this requirement shall be by the fire marshal.

5.552(9) *Fire extinguishers.*

a. Approved type fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

5.552(10) *Mechanical, electrical and building service equipment.*

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. Central heating plants shall be separated from resident occupied spaces by at least a one-hour fire separation. Activation of the alarm system shall shut down the air distribution system.

b. Portable comfort heating devices are prohibited.

c. Any heating device, other than a central heating plant, shall:

(1) Be so designed and installed that combustible material will not be ignited by it or its appurtenances.

(2) If fuel fired, be chimney or vent connected, take its air for combustion directly from the outside, and be so designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area. In addition, it shall have safety devices to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

EXCEPTIONS:

Approved suspended unit heaters may be used, except in means of egress and resident sleeping areas, provided such heaters are located high enough to be out of the reach of persons using the area and provided they are equipped with the safety devices called for in subparagraph (2) above.

Fireplaces may be installed and used only in areas other than resident areas, provided that these areas are separated from resident sleeping spaces by construction having a one-hour fire-resistance rating and they comply with the appropriate standards. In addition thereto, the fireplace must be equipped with a heat tempered glass fireplace enclosure guaranteed against breakage up to a temperature of 650°F. If, in the opinion of the fire marshal, special hazards are present, a lock on the enclosure and other safety precautions may be required.

d. Combustion and ventilation air for boiler, incinerator, or heater rooms shall be taken directly from and discharged directly to the outside air. No incinerator flue shall connect to boiler or furnace flue.

e. Every incinerator flue, rubbish, trash or laundry chute shall be of a standard type, properly designed and constructed and maintained for fire safety. Any chute other than an incinerator flue shall be provided with automatic sprinkler protection installed in accordance with applicable standards.

An incinerator shall not be directly flue fed. Existing flue fed incinerators shall be sealed by fire-resistive construction to prevent further use. Any trash chute shall discharge into a trash collecting room, used for no other purpose and separated from the rest of the building with construction of at least one-hour fire-resistance rating, and provided with approved automatic sprinkler protection.

f. Cooking shall be prohibited except in approved food preparation areas.

g. The electrical systems, including appliances, cords and switches, shall be maintained to guarantee safe functioning.

5.552(11) *Attendants, evacuation plan.*

a. Every facility shall have at least one attendant on duty. This attendant shall be at least 21 years of age and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be considered as an attendant.

b. Every facility shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan. This plan is to be posted where all employees may readily study it. Fire drills shall be held at least once a month. Infirm or disturbed residents need not exit from building. Records of same to be kept available for inspection.

5.552(12) *Smoking.*

a. Smoking may be permitted in facilities only where proper facilities are provided. Smoking shall not be permitted in sleeping quarters or dormitories. "NO SMOKING" signs shall be posted in all resident rooms, stating the smoking regulations in that particular facility.

b. Ashtrays of noncombustible material, and safe design, shall be provided in all areas where smoking is permitted.

5.552(13) *Exit signs and lighting.*

a. Signs bearing the word "EXIT" in plainly legible block letters shall be placed at each exit opening, except at doors directly from rooms to exit corridors or passageways and except at doors leading obviously to the outside from the entrance floor. Additional signs shall be placed in corridors and passageways wherever necessary to indicate the direction of exit. Letters of signs shall be at least 6 inches high, 4½ inches if internally illuminated. All exit and directional signs shall be maintained clearly legible by electric illumination or other acceptable means when natural light fails.

b. All stairways and other ways of exit and the corridor or passageways appurtenant thereto shall be properly illuminated at all times to facilitate egress in accordance with the requirements for exit lighting.

c. Emergency lighting system of an approved type shall be installed so as to provide necessary exit illumination in the event of failure of the normal lighting system within the building. An approved rechargeable battery-powered, automatically operated device will be acceptable.

5.552(14) *Combustible contents.*

a. Window draperies, and curtains for decorative and acoustical purposes shall be flame-retardant.

b. Fresh cut flowers and decorative greens, as well as living vegetation, may be used for decoration, except those containing pitch or resin.

c. Carpeting shall be Class I. See Table No. 5-D following 661—5.105(100).

5.552(15) *Occupancy restrictions.*

a. A resident bedroom shall not be located in a room where the finish floor is more than 30 inches below the finish grade at the building.

b. Another business or activity shall not be carried out in a health care facility or in the same physical structure with a health care facility unless:

(1) The business is under the control of and is directly related to the operation of the health care facility, or

(2) The business is approved by the health facilities division of the Iowa department of inspections and appeals and the state fire marshal.

Approval by the state fire marshal for the operation of a business in a health care facility shall not be extended unless each part of the building housing a licensed health care facility comprising a distinct occupancy, as shown in Table 8-A*, is separated from the health care facility as specified in Table 8-C*. Any business within a physical structure housing a licensed health care facility with an occupancy separation of less than a two-hour fire-resistance rating shall also meet the fire safety requirements which apply to the health care facility.

c. Nonambulatory residents shall be housed on the first floor only.

d. Rescinded IAB 12/12/90, effective 1/16/91.

5.552(16) *Maintenance.*

a. 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, cords and switches, heating and ventilating equipment, sprinkler systems, and exit facilities.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times in residential care facilities.

Rules 5.550(100) to 5.552(100) are intended to implement Iowa Code section 100.35 and 1986 Iowa Acts, chapter 1246, section 206.

661—5.553 to **5.599** Reserved.

Nursing Facilities

661—5.600(100) Definitions. The following definitions apply to rules 661—5.600(100) to 661—5.649:

5.600(1) *"Health care facility"* or *"facility"* means any nursing facility required to be licensed by the Iowa department of inspections and appeals in accord with Iowa Code chapter 135C.

5.600(2) *"Intermediate care facility."* Rescinded IAB 5/13/92, effective 7/1/92.

5.600(3) *"Skilled nursing facility."* Rescinded IAB 5/13/92, effective 7/1/92.

5.600(4) Rescinded May 25, 1977.

5.600(5) Rescinded May 25, 1977.

5.600(6) Rescinded May 25, 1977.

5.600(7) *"Patient"* means an individual admitted to a nursing facility in the manner provided by Iowa Code section 135C.23.

5.600(8) The term *"bed patient"* shall mean a person who is not ambulatory as defined in these standards.

*Published at the end of 661—Chapter 5.

5.600(9) The term *"ambulatory"* when used in these standards shall mean a person who immediately and without aid of another, is physically or mentally capable of walking a normal path to safety including the ascent and descent of stairs.

5.600(10) The term *"nonambulatory"* when used in these standards shall mean a person who immediately and without aid of another is not physically or mentally capable of walking a normal path to safety including the ascent and descent of stairs.

5.600(11) *"State fire marshal"* shall mean the chief officer of the division of fire protection as described in Iowa Code section 100.1 or one authorized to act in the state fire marshal's absence.

5.600(12) Rescinded IAB 3/17/93, effective 5/1/93.

5.600(13) *"Competent."* Having sufficient physical and mental ability to react to an emergency and put into operation a plan for evacuation and extinguishment.

5.600(14) The term *"combustible"* shall mean capable of undergoing combustion.

5.600(15) The term *"combustible or hazardous storage area or room"* shall mean those areas containing heating apparatus and boiler rooms, basements, or attics used for the storage of combustible material, flammable liquids, workrooms such as kitchen, laundry, handicraft shop, carpenter shops, paint shops and upholstery shops, central storerooms such as furniture, mattresses and miscellaneous storage, and similar occupancies intended to contain combustible materials which will either be easily ignited, burn with an intense flame or result in the production of dense smoke and fumes.

5.600(16) The term *"automatic"* as applied to a door, window or other protection for an opening shall mean that such door, window or other protection is so constructed and arranged that if open it will close when subjected to a predetermined temperature or rate of temperature rise.

5.600(17) The term *"flammable liquid"* shall mean any liquid which is governed by the rules promulgated by the state fire marshal under the state of Iowa laws governing the handling, storage and transportation of flammable liquids.

5.600(18) The term *"approved"* when used in these standards shall mean acceptable to the state fire marshal.

a. *"Approved standards"* shall mean any standard or code prepared and adopted by any nationally recognized association.

b. *"Approved equipment and material"* shall mean any equipment or material tested and listed by a nationally recognized testing laboratory.

c. *"Approved"* is defined as being acceptable to the state fire marshal. Any equipment, device or procedure which bears the stamp of approval of or meets applicable standards prescribed by an organization of national reputation such as the Underwriters Laboratories, Inc., Factory Mutual Laboratories, American Society for Testing Materials, American Insurance Association, National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in these regulations shall be deemed acceptable to the state fire marshal.

5.600(19) *"Types of construction"* shall be as defined in National Fire Protection Association Pamphlet No. 220 published in 1985.

5.600(20) A *"story"* shall mean that part of a building comprised between a floor and ceiling or roof next above. The first story shall be that story which is of such height above the ground, that is, does not come within the definition of a basement or cellar. However, if part of a basement qualifies for patient area, it shall be considered the first story.

5.600(21) The term *"attic"* when used in these standards shall mean the space between the ceiling beams of the top habitable story and the roof rafters.

5.600(22) A *"basement"* or cellar for these regulations shall mean that part of a building where the finish floor is more than 30 inches below the finish grade at the building.

5.600(23) *"Exit"* is that portion of a means of egress which is separated from all other spaces of the building or structure by construction or equipment as required in these regulations to provide a protected way of travel to the exit discharge.

5.600(24) *"Exit access"* is that portion of a means of egress which leads to an entrance to an exit.

5.600(25) *"Exit discharge"* is that portion of a means of egress between the termination of an exit and a public way.

5.600(26) The term *"fire partition"* shall mean a partition which subdivides a story of a building to provide an area of refuge or to restrict the spread of fire for a minimum of one hour.

5.600(27) The term *"fire door"* shall mean a door and its assembly, so constructed and assembled in place as to give protection against the passage of fire, equal to surrounding construction.

5.600(28) The term *"fire-resistance"* shall mean that property of materials or assemblies which prevents or retards the passage of excessive heat, hot gases or flames under condition of use. The terms "fire-resistant" and "fire-resistive" shall mean the same as "fire-resistance."

5.600(29) The term *"fire-resistance rating"* shall mean the time in hours or fractions thereof that materials or their assemblies will resist fire exposure as determined by fire tests conducted in compliance with approved standards.

5.600(30) The term *"fire wall"* shall mean a wall of brick or reinforced concrete having adequate fire-resistance and structural stability under fire conditions to accomplish the purpose of completely subdividing a building or of completely separating adjoining buildings to resist the spread of fire. A fire wall shall extend continuously through all stories from foundation to or above the roof.

5.600(31) The term *"sprinklered"* shall mean to be completely protected by an approved system of automatic sprinklers installed and maintained in accordance with approved standards.

5.600(32) The term *"automatic sprinkler system"* shall mean an arrangement of piping and sprinkler designated to operate automatically by the heat of fire and to discharge water upon the fire, according to the standards of the National Fire Protection Association.

5.600(33) *"Interior finish."* See Table 5-C following 661—5.105(100).

5.600(34) *"Panic hardware."* Panic hardware shall cause the door latch to release when pressure of not to exceed 15 pounds is applied to the releasing devices in the direction of exit travel. Such releasing devices shall be bars or panels extending not less than two-thirds of the width of the door and placed at heights not less than 30 nor more than 44 inches above the floor. Only approved panic hardware shall be used on exit doors.

661—5.601(100) Nursing facilities constructed prior to May 25, 1977.

5.601(1) *Application.*

a. This rule shall apply to nursing facilities constructed prior to May 25, 1977, except for those undergoing structural alterations after that date, which must comply with the provisions of rule 661—5.602(100). They shall hereafter be referred to as health care facilities. This rule shall constitute the minimum requirements for facilities constructed prior to May 25, 1977, for approval by the state fire marshal's office. Further, and more stringent, requirements may be imposed by other governmental agencies or political subdivisions, as a requirement for participation in various programs, or to comply with local codes and regulations.

b. Rescinded IAB 3/17/93, effective 5/1/93.

c. Rescinded IAB 3/17/93, effective 5/1/93.

d. No existing building shall be converted to an intermediate care facility or skilled nursing facility unless it complies with all requirements for new buildings.

e. Additions or structural alterations to existing facilities must have written approval from the state fire marshal, and must submit working plans and specifications for review and approval prior to work being started.

5.601(2) *Floor areas.*

a. All floors having a maximum occupancy above 30 persons shall be divided into two sections by a one-hour fire wall or fire partition with ample room on each side for the total number of beds on each floor. However, each patient wing extending from a center core area shall be protected by smoke doors regardless of the number of patients.

b. Corridor length between smokestop partitions, horizontal exits, or from either to the end of the corridor shall not exceed 150 feet on any patient occupied sleeping floor.

c. Any smokestop partition shall have at least a one-hour fire-resistance rating and shall be continuous from wall to wall and floor to floor or roof arch above. Openings in a smokestop partition shall be protected by fixed wire glass panels in steel frames, maximum size of 1,296 square inches each panel, or 1¾-inch solid core wood doors with vision panel in each door, wire glass not over 720 square inches. Such doors shall be self-closing or may be so installed that they may be kept in an open position provided they meet the requirements of *"d."* Doors in smokestop partitions are not required to swing with exit travel. Ample space shall be provided on each side of the barrier for the total number occupants on both sides.

d. Any door in a fire separation, horizontal exit or a smokestop partition may be held open only by an approved electrical device. The device shall be so arranged that the operation of the required detection, alarm or sprinkler system will initiate the self-closing action.

e. Every interior wall and partition in buildings of fire-resistive and noncombustible construction shall be of noncombustible materials.

f. Every patient sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and to permit any occupant to have access to fresh air in case of emergency.

g. Interior finish of exit corridors, and means of egress, shall be Class A in new and Class A or B in existing. See Table No. 5-C following 661—5.105(100).

h. Room doors.

(1) One and three-fourths-inch bonded solid core wood doors or equivalent shall be required on all rooms except as listed in paragraph 2.

(2) "B" labeled doors with approved frames and finish hardware and at least one and one-half hour rating shall be required in openings in walls that are required to have a two-hour fire-resistive rating.

5.601(3) *Exit details.*

a. Exits shall be of the following types or combinations thereof as defined by the National Fire Protection Association.

(1) Horizontal exits.

(2) Doors leading directly outside the buildings (without stairs).

(3) Ramps.

(4) Stairways, or outside stairs.

(5) Seven-foot spiral slides. Approved only where installed prior to effective date of these regulations.

(6) Exit passageways.

(7) Smoke towers.

b. At least two exits of the above types, remote from each other, shall be provided for every floor or section of the building. At least one exit in every floor or section shall be of type 2, 3, 4, 6 or 7, as listed above. Exterior fire escape stairs may be accepted as a second means of exit.

c. At least one required exit from each floor above or below the first floor shall lead directly, or through an enclosed corridor, to the outside. A second or third required exit, where a more direct exit is impracticable, may lead to a first floor lobby having ample and direct exit to the outside.

d. Travel distance (1) between any room door intended as exit access and an exit shall not exceed 100 feet; (2) between any point in a room and an exit shall not exceed 150 feet; (3) between any point in a patient occupied sleeping room or suite and an exit access door of that room or suite shall not exceed 50 feet. The travel distance in (1) or (2) above may be increased by 50 feet in buildings completely equipped with an automatic fire extinguishing system.

e. Exit doors shall not be locked against the egress by bolt key locks, hooks or padlocks. A latch-type lock is permissible that locks against outside entrance. Panic hardware shall be installed on exit doors accommodating over 30 patients.

EXCEPTIONS:

1. Special locking arrangements complying with Exception 3 to subrule 5.53(3) may be permitted provided not more than one such device is located in any egress path.

2. In buildings protected throughout by approved supervised automatic smoke detection systems or approved supervised automatic sprinkler systems, alternate door locking arrangements may be permitted in special units for persons who suffer from chronic confusion or dementing illnesses, licensed under the authority of 1990 Iowa Acts, chapter 1016, section 1, and 481—58.54(73GA,ch 1016) or 481—59.58(73 GA, ch 1016), if the clinical needs of residents of the facility require specialized security measures to ensure their safety. When doors are locked, provisions shall be made for the rapid removal of occupants by reliable means such as remote control of locks or by keying all locks to keys readily available to staff in continuous attendance. Electromagnetic door locks may be permitted provided that doors unlock in each of the following circumstances:

- Loss of power to the electromagnet.
- Activation of the fire detection system.
- Activation of a release switch which must be located at the nurses' station serving the locked area.
- Activation of a release switch which must be located at each door.

Door locking arrangements permitted under Exception 1 or Exception 2 must be approved in writing by the state fire marshal. This approval may be revoked for cause at any time.

5.601(4) *Construction and arrangement.* One of the two or more required exits for areas shall be of such width and so arranged as to avoid any obstruction to the convenient removal of persons by carrying them on stretchers or on mattresses serving as stretchers. A standard 44-inch stairway or ramp is the minimum permitted. Slope of ramp shall not be more than 1 3/16 in 12. Minimum dimension of the stair landing shall be 60 inches. The minimum clear width of any additional required stairway shall be not less than 36 inches.

5.601(5) *Access.*

a. Every sleeping room, unless it has a door opening to the ground level shall have an exit access door leading directly to a corridor which leads to an exit. One adjacent room such as a sitting or anteroom may intervene if all doors along the path of exit travel are equipped with nonlockable hardware.

b. Any required aisle, corridor, or ramp shall be not less than 48 inches in clear width when serving as means of egress from patient sleeping rooms. It shall be of such width and so arranged as to avoid any obstructions to the convenient removal of nonambulatory persons carried on stretchers or on mattresses serving as stretchers. Thirty-six inches may be accepted in custodial homes where all patients are ambulatory.

c. Corridors and passageways to be used as a means of exit, or part of a means of exit, shall be unobstructed and shall not lead through any room or space used for a purpose that may obstruct free passage. Corridors and passageways which lead to the outside from any required stairway shall be enclosed as required for stairways.

d. All rooms must be equipped with a door, at least 1¾-inch solid core wood, or equivalent. Divided doors shall be of such type that when the upper half is closed, the lower section shall close.

(1) No locks shall be installed on patient room doors, except for mentally disturbed patients and an attendant, with key on person, shall be in view of this corridor at all times.

(2) All doorways to patient occupied spaces, and all doorways from patient occupied spaces, and the required exits shall be at least 42 inches in clearance width.

(3) Doors to patient rooms shall swing in except any room accommodating more than four persons shall swing with exit travel.

(4) Residential type of occupancy room doors may be locked by the occupant if they can be unlocked on the corridor side, and keys are carried by attendants at all times.

(5) Doors to basements, furnace rooms, and hazardous areas shall be kept closed and marked, "FIRE DOOR—PLEASE KEEP CLOSED".

5.601(6) *Protection of vertical openings.*

a. Each stairway between stories shall be enclosed with partitions having a one-hour fire-resistance rating, except that where a full enclosure is impractical the required enclosure may be limited to that necessary to prevent a fire originating in any story from spreading to another story.

b. All doorways in stairway enclosures or partitions shall be provided with approved self-closing fire doors and shall be kept closed.

c. Any elevator shaft, light and ventilation shaft, chute and other vertical opening between stories shall be protected as required above for stairways.

5.601(7) *Sprinkler system.*

a. Automatic fire extinguishing protection shall be provided throughout all health care facilities, covered in this regulation, except those of fire-resistive construction, of any height, or protected noncombustible construction not over one story in height, or one story one-hour protected frame construction.

b. Any required automatic sprinkler system shall be in accordance with approved standards for systems in light hazard occupancies, and shall be electrically interconnected with the manual fire alarm system. The main sprinkler control valve shall be electrically supervised so that at least a local alarm will sound when the valve is closed.

c. The sprinkler piping for any isolated hazardous area which can be adequately protected by a single sprinkler may be connected directly to a domestic water supply system having a flow of at least 22 gallons per minute at 15 pounds per square inch residual pressure at the sprinkler. An approved shutoff valve shall be installed between the sprinkler and the connection to the domestic water supply.

5.601(8) *Fire detection and alarm system.*

a. There shall be an automatic fire detection system in all health care facilities covered in this regulation, except where there is a sprinkler system which shall include an approved manual fire alarm system.

b. Requirements for automatic fire detection systems. The system shall meet the following standards:

(1) Automatically detect a fire.

(2) Indicate at a central supervised point the location of the fire.

(3) Sound alarm signal throughout the premises for evacuation purposes.

(4) Provide assurance the system is in operating condition by electric supervision.

(5) Provide auxiliary power supply in the event of main power failure.

(6) Underwriters Laboratory listed equipment to be used throughout system.

(7) Provide a manual test switch.

(8) Installation of equipment and wiring shall be in a neat and workmanship like manner.

(9) Shall be tested by competent person at least semiannually. Date of test and name noted.

(10) To include smoke, or products of combustion, detection devices as required by any rule in these regulations.

(11) Properly located manual alarm stations.

c. Where fire detection systems are installed to meet the requirements of this regulation, they shall be approved electrically supervised systems protecting the entire building, including unoccupied spaces such as attics. Detectors shall be approved combined rate of rise and fixed temperature type detectors 135°F, or smoke, or products of combustion type, and properly installed. In spaces where high temperature is normal, devices having a higher operating point may be used. Operation of a detection or alarm device shall cause an alarm which is audible throughout the building. In existing homes where "fixed temperature only detectors" are already installed they need not be replaced until such time that a new head needs to be installed.

5.601(9) *Fire extinguishers.*

a. Approved-type fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in or adjacent to each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

5.601(10) *Heating and building service equipment.*

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. Central heating plants shall be separated from patient occupied spaces by at least a one-hour fire separation. Activation of the fire alarm system shall shut down the air distribution system.

b. Portable comfort heating devices are prohibited.

c. Any heating device, other than a central heating plant, shall:

(1) Be so designed and installed that combustible material will not be ignited by it or its appurtenances.

(2) If fuel fired, be chimney or vent connected, take its air for combustion directly from the outside, and be so designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area. In addition, it shall have safety devices to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

EXCEPTIONS:

Approved suspended unit heaters may be used, except in means of egress and patient sleeping areas, provided such heaters are located high enough to be out of the reach of persons using the area and provided they are equipped with the safety devices called for in subparagraph (2) above.

Fireplaces may be installed and used only in areas other than patient areas, provided that these areas are separated from patient sleeping spaces by construction having a one-hour fire-resistance rating and they comply with the appropriate standards. In addition thereto, the fireplace must be equipped with a heat tempered glass fireplace enclosure guaranteed against breakage up to a temperature of 650°F. If, in the opinion of the fire marshal, special hazards are present, a lock on the enclosure and other safety precautions may be required.

d. Combustion and ventilation air for boiler, incinerator or heater rooms shall be taken directly from and discharged directly to the outside air. No incinerator flue shall connect to boiler or furnace flue.

e. Every incinerator flue, rubbish, trash or laundry chute shall be of a standard type, properly designed and constructed, and maintained for fire safety. Any chute other than an incinerator flue shall be provided with automatic sprinkler protection installed in accordance with applicable standards.

An incinerator shall not be directly flue fed. Existing flue-fed incinerators shall be sealed by fire-resistive construction to prevent further use. Any trash chute shall discharge into a trash collecting room, used for no other purpose and separated from the rest of the building with construction of at least one-hour fire-resistance rating, and provided with approved automatic sprinkler protection.

f. All openings in hazardous areas as defined in 5.600(15) shall be protected by material having at least one-hour fire rating.

5.601(11) *Attendants, evacuation plan.*

a. Every health care facility covered in these regulations, shall have at least one competent attendant on duty, awake and dressed therein at all times, and in addition if 11 patients or over, one standby attendant within hearing distance and available for emergency service. These attendants shall be at least 18 years of age and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be employed as an attendant.

b. Every health care facility covered in these regulations shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan. This plan is to be posted where all employees may readily study it. Fire drills shall be held at least once a month for each shift. Infirm or disturbed patients need not exit from building. Record of same to be kept available for inspection.

5.601(12) *Smoking.*

a. Smoking may be permitted in health care facilities covered in these rules only where proper facilities are provided. Smoking shall not be permitted in sleeping quarters or dormitories. Bedfast persons, or persons considered not responsible, shall not be allowed to smoke at any time except upon written orders of the patient's physician and then only under direct responsible supervision. Clothing and bed linens for these individuals shall be approved fire-retardant material or properly treated and maintained fire-retardant.

b. Ashtrays of noncombustible material, and safe design, shall be provided in all areas where smoking is permitted.

c. "NO SMOKING" signs shall be posted in all patient occupied rooms, stating the smoking regulations in that particular facility.

5.601(13) *Exit signs and lighting.*

a. Signs bearing the word "EXIT" in plainly legible block letters shall be placed at each exit opening, except at doors directly from rooms to exit corridors or passageways and except at doors leading obviously to the outside from the entrance floor. Additional signs shall be placed in corridors and passageways wherever necessary to indicate the direction of exit. Letters of signs shall be at least 6 inches high, or 4½ inches high if internally illuminated. All exit and directional signs shall be maintained clearly legible by electric illumination or other acceptable means when natural light fails.

b. All stairways and other ways of exit and the corridors or passageways appurtenant thereto shall be properly illuminated at all times to facilitate egress in accordance with the requirements for exit lighting.

c. Emergency lighting system of an approved type shall be installed so as to provide, automatically, the necessary exitway illumination in the event of failure of the normal lighting system within the building. An approved, rechargeable, battery-powered, automatically operated device will be acceptable.

5.601(14) *Combustible contents.*

a. All draperies, curtains and cubicle curtains shall be noncombustible, or rendered and maintained flame-retardant. Wastebaskets to be of noncombustible, nonthermoplastic material.

b. Fresh cut flowers and decorative greens, as well as living vegetation, may be used for decoration, except those containing pitch or resin.

c. Carpeting shall be Class I. See Table No. 5-D following rule 661—5.105(100).

5.601(15) *Occupancy restrictions.*

a. A patient bedroom shall not be located in a room where the finish floor is more than 30 inches below the finish grade at the building.

b. Another business or activity shall not be carried out in a health care facility or in the same physical structure with a health care facility unless:

(1) The business is under the control of and is directly related to the operation of the health care facility, or

(2) The business is approved by the health facilities division of the Iowa department of inspections and appeals and the state fire marshal.

Approval by the state fire marshal for the operation of a business in a health care facility shall not be extended unless each part of the building housing a licensed health care facility comprising a distinct occupancy, as shown in Table 8-A*, is separated from the health care facility as specified in Table 8-C*. Any business within a physical structure housing a licensed health care facility with an occupancy separation of less than a two-hour fire-resistance rating shall also meet the fire safety requirements which apply to the health care facility.

5.601(16) *Maintenance of mechanical, electrical and building service equipment.*

a. Regular and proper maintenance of electric service, including appliances, cords and switches, heating plants, alarm systems, sprinkler systems, fire doors and exit facilities shall be a requisite for health care facilities covered in these rules.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as paper cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times in health care facilities covered in these rules.

661—5.602(100) Nursing facilities constructed on or after May 25, 1977.

5.602(1) *Application.*

a. This rule shall apply to nursing facilities constructed on or after May 25, 1977, and to facilities constructed prior to May 25, 1977, which undergo structural alteration on or after May 25, 1977. It also applies to additions to facilities, when the additions are constructed on or after May 25, 1977. Alterations to facilities which are solely intended to meet the requirements of rule 661—5.601(100) are not covered by this rule. Further and more stringent requirements may be imposed by other government agencies and political subdivisions, as requirements for participation in various programs, or to comply with local codes and regulations.

b. Rescinded IAB 5/13/92, effective 7/1/92.

c. Any addition shall be separated from any existing nonconforming structure by a noncombustible partition having a two-hour fire-resistance rating.

d. Rescinded IAB 5/13/92, effective 7/1/92.

e. When new construction is contemplated for a facility, preliminary plans may be submitted for review. Working drawings, plans and specifications shall be submitted to the state fire marshal for review and approval. Written approval by the state fire marshal shall be required prior to construction.

*Published at the end of 661—Chapter 5.

f. Certain occupancies, conditions in the area, or the site may make compliance with the rules impractical or impossible. Certain conditions may justify minor modifications of the rules. In specific cases, variations to the rules may be permitted by the reviewing authority after the following conditions are considered:

(1) Design and planning for the specific property offers improved or compensating features providing equivalent safety.

(2) Alternate or special construction methods, techniques and mechanical equipment, if proposed, offer equivalent durability, safety, structural strength and rigidity, and quality of workmanship.

(3) Variations permitted do not individually or in combination with others endanger the health, safety, or welfare of any patient or resident.

(4) Variations are limited to the specific project under consideration and are not construed as establishing a precedent for similar acceptance in other cases.

(5) When alternate protection is accepted, the institution shall be considered as conforming for purposes of these regulations.

5.602(2) *Construction.*

a. Buildings of one story in height only may be constructed of protected noncombustible construction, fire-resistive construction, protected ordinary construction, protected wood frame construction, heavy timber construction, or unprotected noncombustible construction. (See 5.602(9) for automatic sprinkler requirements.)

b. Buildings two stories or more in height shall be constructed of at least fire-resistive construction.

c. Other types of construction not permitted.

d. The enclosure walls of stairways, ramps, exit passageway elevator shafts, chutes and other vertical openings between floors shall be of noncombustible materials having a fire-resistance rating of at least two hours in buildings of any height.

5.602(3) *Division of floor areas.*

a. Each floor used for patient sleeping rooms, unless provided with a horizontal exit, shall be divided into at least two compartments by a smokestop partition.

b. Corridor length between smokestop partitions, horizontal exits, or from either, to the end of the corridor on any institutional sleeping floor shall not exceed 150 feet. Not more than 30 persons shall occupy any one such partitioned area. However, each patient wing extending from the center core area shall also be protected by smoke doors regardless of number of persons.

c. Any smokestop partition shall have a fire-resistance rating of at least one hour. Such a partition shall be continuous from outside wall to outside wall and from floor slab to the underside of the slab above, through any concealed spaces such as between the hung ceiling and the floor or roof above. Such a partition shall have openings only in a public room or corridor. At least 30 net square feet per institutional occupant for the total number of institutional occupants in adjoining compartments shall be provided on each side of the smokestop partition.

d. Any corridor opening in smokestop partitions shall be protected by a pair of swinging doors, each leaf to be a minimum of 44 inches wide. In addition, any smokestop door shall conform to the following minimum standards:

(1) Smokestop doors shall be at least 1¾-inch solid core wood doors designed to close the opening completely with only such clearance as is reasonably necessary for proper operation. Stops are required on the head and sides. Positive latching hardware and center mullions are prohibited.

(2) Smokestop doors shall be self-closing and may be held in an open position only if they meet the requirements of *"e."*

(3) Vision panels are required in all doors in smokestop partitions. They shall be wired glass in approved metal frames not exceeding 720 square inches.

e. Any door in a fire separation, horizontal exit or a smokestop partition may be held open only by an approved electrical device. The device shall be so arranged that the operation of the required detection, alarm or sprinkler system will initiate the self-closing action.

EXCEPTION. Rescinded IAB 5/13/92, effective 7/1/92.

f. A horizontal exit in a corridor 8 feet or more in width serving as a means of egress from both sides of the doorway shall have the opening protected by a pair of swinging doors, each door to be a minimum of 44 inches wide and swinging in the opposite direction from the other.

g. Doors.

(1) A 1¾-inch solid core wood door, its equivalent, or a "C" label door with approved frame and finish hardware, will be required on all rooms other than those considered hazardous.

(2) A "B" labeled door with at least a one-hour fire rating with approved frames and finish hardware shall be required on all rooms listed as hazardous and openings in stairways or other vertical openings connecting three stories or less.

(3) "B" labeled doors with at least a one and one-half hour rating will be required on openings in stairways or other vertical openings connecting more than three stories; openings in walls that are required to have at least a two-hour fire-resistance rating.

5.602(4) *Exit details.*

a. Exits shall be restricted to the following permissible types:

(1) Doors leading directly outside the building.

(2) Stairs and smokeproof towers.

(3) Ramps.

(4) Horizontal exits.

(5) Outside stairs.

(6) Exit passageways.

b. At least two exits of the above types, remote from each other, shall be provided for each floor or fire section of the building. At least one exit in each floor or fire section shall be as indicated in 1, 2, 5 or 6 as listed above.

c. At least one required exit from each floor above or below the first floor shall lead directly, or through an enclosed corridor, to the outside. A second or third required exit, where a more direct exit is impracticable, may lead to a first floor lobby having ample and direct exits to the outside.

d. Travel distance (1) between any room door intended as exit access and an exit shall not exceed 100 feet; (2) between any point in a room and an exit shall not exceed 150 feet; (3) between any point in a patient sleeping room or suite and exit access door of that room or suite shall not exceed 50 feet. The travel distances in (1) or (2) above may be increased by 50 feet in buildings completely equipped with an automatic fire extinguishing system.

e. Exit doors shall swing with egress and shall not be locked against the egress by bolts, key locks, hooks or padlocks. A latch-type lock is permissible that locks against outside entrances. Panic hardware shall be installed on exit doors accommodating over 30 patients.

EXCEPTIONS:

1. Special locking arrangements complying with Exception 3 to subrule 5.53(3) may be permitted provided not more than one such device is located in any egress path.

2. In buildings protected throughout by approved supervised automatic smoke detection systems or approved supervised automatic sprinkler systems, alternate door locking arrangements may be permitted in units for persons who suffer from chronic confusion or dementing illnesses, licensed under the authority of 1990 Iowa Acts, chapter 1016, section 1, and 481—58.54(73GA, ch 1016) or 481—59.58(73GA,ch 1016), if the clinical needs of residents of the facility require specialized security measures to ensure their safety. When doors are locked, provisions shall be made for the rapid removal of occupants by reliable means such as remote control of locks or by keying all locks to keys readily available to staff in continuous attendance. Electromagnetic door locks may be permitted provided that doors unlock in each of the following circumstances:

- Loss of power to the electromagnet.
- Activation of the fire detection system.
- Activation of a release switch which must be located at the nurses' station serving the locked area.
- Activation of a release switch which must be located at each door.

Door locking arrangements permitted under Exception 1 or Exception 2 must be approved in writing by the state fire marshal. This approval may be revoked for cause at any time.

f. Every patient sleeping room shall have an outside window or outside door arranged and located so that it can be opened from the inside without the use of tools or keys to permit the venting of products of combustion and to permit any occupant to have direct access to fresh air in case of emergency. The maximum allowable sill height shall not exceed 36 inches above the floor except that the window sill in special nursing care areas may be 60 inches above the floor.

g. The capacity of any required exit shall be based on its width in units of 22 inches. The capacity of exits providing travel by means of stairs shall be 22 persons per exit unit; and exits providing travel without stairs, such as doors or horizontal exits shall be 30 persons per exit unit.

5.602(5) *Construction and arrangement.* All stairs, ramps, or other ways of exit for areas shall be of such width and so arranged as to avoid any obstruction to the convenient removal of nonambulatory persons by carrying them on stretchers or on mattresses serving as stretchers. A standard 44-inch wide stairway or ramp is the minimum permitted; slope of ramp shall be 1 to 1 3/16 in 12. Where persons are to be carried on mattresses or stretchers extra space may be needed to make turns at stair landings. Minimum dimension of a stair landing shall be 60 inches.

5.602(6) *Access.*

a. Each occupied room shall have at least one doorway open directly to the outside, or to a corridor leading directly or by a stairway or ramp to the outside.

b. Aisles, corridors and ramps required for exit access or exit shall be at least 8 feet in clear and unobstructed width except that corridors and ramps in adjunct areas not intended for the housing, treatment or use of inpatients may be a minimum of 6 feet in clear and unobstructed width.

c. Corridors and passageways to be used as a means of exit or part of a means of exit, shall be unobstructed and shall not lead through any room or space used for a purpose that may obstruct free passage. Corridors and passageways which lead to the outside from any required stairway shall be enclosed as required for stairways. Corridors shall be separated from use areas by walls having a fire-resistance rating of at least one-hour construction and without transfer grilles whether or not such grilles are protected by dampers actuated by fusible links.

d. Interior finish in means of egress shall be Class A. Interior finish of rooms shall be Class A. Class B may be permitted in one- or two-person rooms. See Table No. 5-C following 661—5.105(100).

(1) Doors between all rooms and corridors, other than doors to hazardous areas, horizontal exits or stair doors, shall be of no less than 1¾-inch solid-core wood doors and shall be without undercuts or louvers. The doors shall be provided with latches of a type suitable for keeping the door tightly closed and acceptable to the state fire marshal.

(2) Fixed wire glass vision panels may be placed in corridor walls, provided they do not exceed 1,296 square inches in size and are installed in approved steel frames. Fixed wired glass vision panels may be installed in wood doors, provided they do not exceed 720 square inches in size and are installed in approved steel frames.

(3) Waiting areas of 250 square feet or less on a patient occupied sleeping floor may be open to the corridor provided that they are located to permit direct supervision by the staff. Such areas shall be equipped with an electrically supervised automatic fire detection system actuated by smoke or products of combustion other than heat. Not more than one such waiting area is permitted in each smoke compartment.

(4) Waiting areas of 600 square feet or less on floors other than patient occupied sleeping floors may be open to the corridor, provided that they are located to permit direct supervision by the staff and so arranged as not to obstruct any access to required exits. Such areas shall be protected by an electrically supervised automatic fire detection system actuated by smoke or other products of combustion other than heat.

5.602(7) *Doors.*

a. All rooms must be equipped with a door. Divided doors shall be of such type that when the upper half is closed the lower section shall close.

b. No locks shall be installed on patient room doors, except for mentally disturbed patients, and an attendant, with key on person, shall be in view of this corridor at all times.

c. All doorways to patient occupied spaces, and all doorways between the patient occupied spaces and the required exits shall be at least 44 inches in clear width.

d. Doors to patient rooms shall swing in, except any room accommodating more than four persons shall swing with exit travel.

e. Residential type of occupancy room doors may be lockable by the occupant, if they can be unlocked on the corridor side and keys are carried by attendants at all times.

f. Doors to basements, furnace rooms and hazardous areas shall be kept closed and marked, "FIRE DOOR—PLEASE KEEP CLOSED".

5.602(8) *Protection of vertical openings.*

a. Every stairway, elevator shaft, light and ventilation shaft, chute and other opening between stories shall be enclosed or protected to prevent the spread of fire or smoke.

(1) Each floor opening, as specified, shall be enclosed by substantial walls having fire-resistance not less than required for stairways, with approved fire doors or windows provided in openings therein, all so designed and installed as to provide a complete barrier to the spread of fire or smoke through such openings.

(2) The enclosing walls of floor openings serving stairways or ramps shall be so arranged as to provide a continuous path of escape, including landing and passageways, providing protection for persons using the stairway or ramp against fire or smoke therefrom in other parts of the building. Such walls shall have fire resistance as follows:

New buildings four stories or more in height, two-hours noncombustible construction.

Other new buildings, one-hour.

Wired glass in metal frames may be accepted in existing buildings and in new buildings.

b. A door in an exit stairway enclosure shall be self-closing, and shall normally be kept closed and shall be marked, "FIRE EXIT—PLEASE KEEP DOOR CLOSED".

5.602(9) *Automatic sprinklers.*

a. Automatic fire extinguishing protection shall be provided throughout all health care facilities covered in this regulation, except those of fire-resistive construction, or one-story protected noncombustible construction. [5.602(2)].

b. Required automatic sprinkler systems shall be in accordance with approved standards for systems in light hazard occupancies, and shall be electrically interconnected with the fire alarm system. The main sprinkler control valve shall be electrically supervised so that at least a local alarm will sound when the valve is closed.

5.602(10) *Fire alarm and detection system.*

a. Where fire detection systems are installed to meet the requirements of this regulation, they shall be approved electrically supervised systems protecting the entire building, including unoccupied spaces such as attics. Detectors shall be approved combined rate of rise and 135°F, or smoke, or products of combustion type, and properly installed. Where fixed temperature devices are required, they shall be constructed to operate at 165°F, or less, except that in spaces where high temperature is normal, devices having a higher operating point may be used. Operation of a detection, or alarm, device shall cause an alarm which is audible throughout the building.

Requirements for automatic fire detection system. The system shall meet the following standards.

(1) Automatically detect a fire.

(2) Indicate at a central point notice of the fire.

(3) Sound alarm signal throughout the premises for evacuation purposes.

(4) Provide assurance the system is in operating condition by electric supervision.

(5) Provide auxiliary power supply in the event of main power failure.

(6) Underwriters Laboratory listed equipment to be used throughout system.

(7) Provide a manual test switch.

(8) Installation of equipment and wiring shall be in a neat and workmanship-like manner, and according to manufacturer's instructions.

(9) Shall be tested by competent person at least semiannually. Date of test and name listed.

(10) To include smoke, or products of combustion detection devices, other than heat, as required by any rule in these regulations.

(11) Properly located manual alarm stations.

b. Every building shall have an electrically supervised manually operated fire alarm system integral with detection system in accordance with approved standards. The fire alarm system shall be installed to transmit an alarm automatically to the fire department, where available, that is legally committed to serve the area in which the health care facility is located, by the most direct and reliable method approved by local regulations. Manual alarm stations shall be located at each exit door, nurses' station, kitchen, boiler and mechanical room, and other locations as required by the fire marshal.

c. There shall be an automatic fire detection system in all homes except where there is a sprinkler system.

d. The actuation of any detector system, manual alarm, or sprinkler system shall activate the alarm system.

5.602(11) *Fire extinguishers.*

a. Approved-type fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

c. Hoods over cooking ranges, etc. shall be protected by an approved automatic extinguishing system.

5.602(12) *Mechanical, electrical and building service equipment.*

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. Central heating plants shall be separated from patient occupied spaces by at least a one-hour fire separation. Activation of the fire alarm system shall shut down the air distribution system.

b. Portable comfort heating devices are prohibited.

c. Any heating device other than an approved central heating plant shall:

(1) Be so designed and installed that combustible matter will not be ignited by it or its appurtenances.

(2) If fuel fired, be chimney or vent connected, take its air for combustion directly from outside, and be so designed and installed to provide for complete separation of the combustion system from the atmosphere of the occupied area. In addition, it shall have safety devices to immediately stop the flow of fuel and shut down the equipment in case of either excessive temperatures or ignition failure.

EXCEPTIONS:

Approved suspended unit heaters may be used except in means of egress and patient sleeping areas, provided such heaters are located high enough to be out of the reach of persons using the area and provided they are equipped with the safety devices called for in subparagraph (2) above.

Fireplaces may be installed and used only in areas other than patient sleeping areas, provided that these areas are separated from sleeping spaces by construction having a one-hour fire-resistance rating and they comply with the appropriate standards. In addition thereto, the fireplace must be equipped with a hearth that shall be raised at least 4 inches, and a heat tempered glass fireplace enclosure guaranteed against breakage up to a temperature of 650°F. If, in the opinion of the fire marshal, special hazards are present, a lock on the enclosure and other safety precautions may be required.

Combustion and ventilation air for boiler, incinerator or heater rooms shall be taken from, and discharged directly to the outside air. No incinerator flue shall connect to boiler or furnace flue.

Every incinerator flue, rubbish or laundry chute shall be of a standard type, properly designed and constructed and maintained for fire safety. Any chute other than an incinerator flue shall be provided with automatic sprinkler protection installed in accordance with applicable standards, such as Standard No. 13, Automatic Sprinklers, of National Fire Protection Association.

No incinerator shall be directly flue fed. Any trash chute shall discharge into a trash collecting room, used for no other purpose, and separated from the rest of the building with construction of at least one-hour fire-resistance rating, and provided with an approved automatic sprinkler protection.

d. All openings in hazardous areas as defined in 5.600(15) shall be protected by material having at least one-hour fire rating.

e. The electrical systems, including appliances, cords and switches, shall be maintained to guarantee safe functioning and comply with the National Electrical Code.

5.602(13) *Attendants, evacuation plan.*

a. Every health care facility covered in this rule shall have at least one competent attendant on duty awake and dressed therein at all times, and, in addition one standby attendant within hearing distance and available for emergency service. These attendants shall be at least 18 years of age, and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be considered as an attendant.

b. Every health care facility covered in this regulation shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan. This plan is to be posted where all employees may readily study it. Fire drills shall be held at least once a month. Infirm or disturbed patients need not exit from building. Record of same to be kept available for inspection.

c. Every bed intended for use by patients shall be easily movable under conditions of evacuation, and shall be equipped with the size and type of caster to allow easy mobility.

5.602(14) *Smoking.*

a. Smoking may be permitted in nursing and custodial homes only where proper facilities are provided. Smoking shall not be permitted in sleeping quarters or dormitories. Bedfast persons, or persons considered not responsible, shall not be allowed to smoke at any time except upon written orders of the patient's physician and then only under direct responsible supervision. Clothing and bed linens for these individuals shall be approved fire-retardant material or properly treated and maintained fire retardant.

b. Ashtrays of noncombustible material and safe design shall be provided in all areas where smoking is permitted.

c. "NO SMOKING" signs shall be posted in all patient occupied rooms, stating the smoking regulations in that particular facility.

5.602(15) *Exit signs and lighting.*

a. Signs bearing the word "EXIT" in plainly legible block letters shall be placed at each exit opening, except at doors directly from rooms to exit corridors or passageways and except at doors leading obviously to the outside from the entrance floor. Additional signs shall be placed in corridors and passageways wherever necessary to indicate the direction of exit. Letters of signs shall be at least 6 inches high, or 4½ inches if internally illuminated. All exit and directional signs shall be maintained clearly legible by electric illumination or other acceptable means when natural light fails.

b. All stairways and other ways of exit and the corridor or passageways appurtenant thereto shall be properly illuminated at all times to facilitate egress in accordance with the requirements for exit lighting.

c. Emergency lighting system of an approved type shall be installed so as to provide necessary exit illumination in the event of failure of the normal lighting system within the building. An approved type will be an electric generator, on the premises, driven by an independent source of power, either operated simultaneously, through separate wiring circuits, with the regular lighting circuits, or shall come into operation automatically upon failure of the regular lighting circuit. It shall be capable of repeated operation without manual intervention. In one story buildings with 50 or less occupants, an approved rechargeable battery-powered, automatically operated, device may be used.

5.602(16) *Combustible contents.*

a. All draperies, curtains and cubicle curtains shall be noncombustible or rendered and maintained flame-retardant. Wastebaskets to be of noncombustible, nonthermoplastic material.

b. Fresh cut flowers and decorative greens, as well as living vegetation, may be used for decoration, except those containing pitch or resin.

c. Carpeting shall be Class I. See Table No. 5-D following rule 661—5.105(100).

5.602(17) *Occupancy restrictions.*

a. A patient bedroom shall not be located in a room where the finish floor is more than 30 inches below the finish grade at the building.

b. Another business or activity shall not be carried out in a health care facility or in the same physical structure with a health care facility unless:

(1) The business is under the control of and is directly related to the operation of the health care facility, or

(2) The business is approved by the health facilities division of the Iowa department of inspections and appeals and the state fire marshal.

Approval by the state fire marshal for the operation of a business in a health care facility shall not be extended unless each part of the building housing a licensed health care facility comprising a distinct occupancy, as shown in Table 8-A*, is separated from the health care facility as specified in Table 8-C*. Any business within a physical structure housing a licensed health care facility with an occupancy separation of less than a two-hour fire-resistance rating shall also meet the fire safety requirements which apply to the health care facility.

5.602(18) *Maintenance.*

a. Regular and proper maintenance of electric service, heating plants, alarm systems, sprinkler systems, fire doors and exit facilities shall be a requisite for every health care facility covered in this rule.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times in every health care facility covered in this rule.

661—5.603(100) Intermediate care facilities for persons with mental illness (ICF-PMI). All health care facilities which are licensed by the Iowa department of inspections and appeals as intermediate care facilities for persons with mental illness (ICF-PMI) shall comply with the applicable provisions for limited care facilities, chapter 12, and use condition IV, chapter 14, Life Safety Code, 1991 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

Rules 5.600(100) to 5.603(100) are intended to implement Iowa Code section 100.35.

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661—5.604 to **5.606** Reserved.

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RESIDENTIAL FACILITIES

661—5.607(100) Scope. Group home facilities include those facilities for persons with drug and alcohol rehabilitation, halfway houses, juvenile detention, birthing centers or any residential-type facility requiring fire marshal approval or inspection for licensing or occupancy but not licensed under Iowa Code chapter 135C.

5.607(1) Application. These rules shall apply to those facilities, classified as group homes in rule 5.607(100), which provide sleeping accommodations for six or more persons, including buildings in which separate sleeping rooms are provided on either a transient or permanent basis, with or without meals but without separate cooking facilities for individual occupants.

5.607(2) The requirements of these rules are applicable to new buildings, and to existing or modified buildings for use as described in 5.607(100).

NOTE: These rules are minimum requirements. There may be more restrictive regulations locally.

5.607(3) Equivalency concepts. Nothing in these rules is intended to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, effectiveness, durability, and safety to those prescribed by these rules, providing technical documentation is submitted to the authority having jurisdiction to demonstrate equivalency and the system, method, or device is approved for the intended purpose.

5.607(4) The specific requirements of these rules may be modified by the authority having jurisdiction to allow alternative arrangements that will secure as nearly equivalent safety to life from fire as practical, but in no case shall the modification afford less safety to life than, in the judgment of the authority having jurisdiction, that which would be provided with compliance with the corresponding provisions contained in the rules.

5.607(5) Buildings with alternative fire protection features accepted by the authority having jurisdiction shall be considered as conforming with the rules.

5.607(6) In the case of building with mixed occupancies where two or more classes of occupancy occur in the same building or structure and are so intermingled that separate safeguards are impractical, means of egress facilities, construction, protection, and other safeguards shall comply with the most restrictive life safety requirements of the occupancies involved.

5.607(7) Definitions.

"Hazardous area." A hazardous area is any space that contains storage or other activity having fuel conditions exceeding that of a one- or two-family dwelling and possessing the potential for a fully involved fire. Hazardous areas include, but are not limited to, areas for cartoned storage, food or household maintenance items in wholesale or institutional-type quantities and concentrations, or massed storage of residents' belongings. Areas containing approved, properly installed and maintained furnaces and heating equipment, and furnace rooms, cooking, and laundry facilities are not classed as hazardous areas on the basis of such equipment.

5.607(8) Minimum construction requirements. No special requirements.

5.607(9) Occupant load. Six or more persons, 200 square feet gross floor area per person. Exit doors shall swing with egress (outward) when the occupant load is over 50 persons.

5.607(10) Interior finish. All interior finish in enclosed vertical exitways shall be Class A. See Table No. 5-C following 661—5.105(100).

EXCEPTION 1: In buildings protected throughout by a complete automatic sprinkler system in accordance with National Fire Protection Association Standard No. 13D, 1984 edition, interior finish shall be at least Class C throughout.

EXCEPTION 2: The state fire marshal may accept nonapproved finish materials applied directly over noncombustible surfaces in existing buildings only.

661—5.608(100) Means of escape.

5.608(1) Number and means of escape. Every sleeping room shall have access to a primary means of escape so located as to provide a safe path of travel to the outside of the building without traversing any corridor or space exposed to an unprotected vertical opening. Where the sleeping room is above or below the level of exit discharge, the primary means shall be an enclosed interior stair, an exterior stair, a horizontal exit, or an existing fire escape stair.

5.608(2) The second means of escape or alternate protection shall be one of the following:

a. A door, stairway, passage or hall providing a way, independent of and remote from the primary means of escape, of unobstructed travel to the outside of the dwelling at street or ground level.

b. A passage through adjacent nonlockable spaces independent of and remote from the primary means of escape to any approved means of escape.

c. The bedroom or living area shall be separated from all other parts of the living unit by construction having a fire-resistance rating of at least 20 minutes and shall be equipped with a door that will resist passage of fire for at least 20 minutes, and is designed and installed to minimize smoke leakage.

EXCEPTION 1: If the bedroom has a door leading directly outside the building with access to grade or to a stairway that meets the requirements for exterior stairs in 5.608(1), that exit shall be considered as meeting all of the exit requirements for that sleeping room.

EXCEPTION 2: If the dwelling unit is protected throughout by an approved automatic sprinkler system in accordance with NFPA 13, Standard for the Installation of Sprinkler Systems, or NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Mobile Homes, as applicable.

EXCEPTION 3: Existing approved means of escape may be continued in use.

5.608(3) Interior stairways shall be enclosed with 20-minute fire barriers with all openings protected with smoke-actuated automatic or self-closing doors having a fire resistance comparable to that required for the enclosure.

EXCEPTION 1: Stairs connecting two levels only may be open to other than the street floor, if equipped with automatic smoke detectors on each floor interconnected as per National Fire Protection Association Standard No. 74, 1985 edition.

EXCEPTION 2: Stairways may be unprotected in accordance with the exception to 5.609(1).

5.608(4) Winders or circular stairs shall not be used in new construction. Existing winders or circular stairs may be continued in use.

5.608(5) No door or path of travel to a means of egress shall be less than 30 inches (72 cm) wide, clear width (32-inch door).

EXCEPTION: Bathroom doors may be 24 inches (61cm) wide.

5.608(6) Every closet door latch shall be designed to be readily opened from the inside in case of emergency.

5.608(7) Every bathroom door shall be designed to permit the opening of the locked door from the outside in an emergency.

5.608(8) No door in any means of egress shall be locked against egress when the building is occupied.

EXCEPTION: When additional fire and life safety features have been approved by the state fire marshal, special door locking arrangements may be permitted by the state fire marshal. In buildings in which doors are locked, provisions shall be made for the rapid removal of occupants by such reliable means as the remote controls of locks or by keying all locks to keys readily available to staff who are in constant attendance.

Written permission shall be obtained for any facility using this exception.

5.608(9) Separation of sleeping rooms. All sleeping rooms shall be separated from escape route corridors by walls and doors that are smoke resistant. There shall be no louvers or operable transoms or other air passages penetrating the wall except properly installed heating and utility installations other than transfer grilles. Transfer grilles are prohibited. Doors shall be provided with latches or other mechanisms suitable for keeping the doors closed. No doors shall be arranged so as to prevent the occupant from closing the doors. All sleeping rooms shall have a window for ventilation of not less than 20 inches wide, 24 inches high, and not less than 5.7 square feet area nor more than 44 inches above the floor.

661—5.609(100) Protection of vertical openings.

5.609(1) Vertical openings shall be protected so that no primary exit route is exposed to an unprotected vertical opening. The vertical opening is considered protected if the opening is cut off and enclosed in a manner that provides a smoke and fire resisting capability of not less than 20 minutes. Any door or openings shall have equivalent fire and smoke resisting capability to the enclosure and be automatic-closing on detection of smoke or be self-closing and kept closed.

EXCEPTION: In buildings three stories or less in height, protected throughout by a complete approved automatic sprinkler system in accordance with National Fire Protection Standard No. 13, 1987 edition, or No. 13D, 1984 edition, unprotected vertical openings are permitted. However, in such case, there shall still remain a primary means of exit from each sleeping area that does not require occupants to pass through a portion of a lower floor, unless that route is separated from all spaces on that floor by construction having a 20-minute fire-resistance rating.

5.609(2) Exterior stairs shall be reasonably protected against blockage by a fire that would simultaneously expose both the interior and exterior means of escape.

661—5.610(100) Detection, alarm, and communications.

5.610(1) *General.* Group home facilities shall be provided with a fire alarm system in accordance with National Fire Protection Association Standard No. 74, 1984 edition.

EXCEPTION 1: Buildings shall have a smoke detection system meeting or exceeding the requirements of National Fire Protection Association Standard No. 74, 1984 edition or Iowa Code section 100.18 and that detection system shall include at least one manual fire alarm station per floor arranged to initiate the smoke detection alarm.

EXCEPTION 2: Buildings protected throughout by a complete approved automatic sprinkler alarm system in accordance with National Fire Protection Association Standard No. 13, 1987 edition, or No. 13D, 1984 edition.

5.610(2) *Initiation.* Initiation of the required fire alarm system shall be by manual means in accordance with National Fire Protection Association Standard No. 74, 1984 edition.

5.610(3) *Notification.* Occupant notification shall be provided automatically, without delay, by internal audible alarm in accordance with National Fire Protection Association Standard No. 74, 1984 edition. Presignal systems are prohibited.

5.610(4) *Detection.* Approved smoke detectors meeting the requirements of National Fire Protection Association Standard No. 74, 1984 edition, shall be provided.

5.610(5) *Emergency lighting.* Approved battery-operated emergency lighting is required for each occupied floor illuminating exits and routes to them.

661—5.611(100) Hazardous areas. Any hazardous area shall be protected in accordance with the following:

5.611(1) If a hazardous area is on the same floor as, and is in or abuts, a primary means of escape or a sleeping room, the hazardous area shall be protected by either:

a. An enclosure with a fire-resistance rating of at least one hour with a self-closing fire door having a fire-protection rating of at least 20 minutes as per National Fire Protection Association Standard No. 80, 1986 edition, or the equivalent.

b. Automatic sprinkler protection, in accordance with No. 13D, 1984 edition, of the hazardous area and a separation that will resist the passage of smoke between the hazardous area and the exposed sleeping area or primary exit route. Any doors in such separation shall be self-closing or automatic-closing on smoke detection.

5.611(2) Other hazardous areas shall be protected by either:

a. An enclosure with a fire-resistance rating of at least 20 minutes with a self-closing or smoke detector-operated automatic-closing door at least equivalent to a 1¾-inch (4.4cm) solid bonded wood core construction, or

b. Automatic sprinkler protection, in accordance with National Fire Protection Association Standard No. 13, 1987 edition, or No. 13D, 1984 edition, of the hazardous area regardless of enclosure.

661—5.612(100) Building service.

5.612(1) The electrical wiring shall meet the requirements of the National Electrical Code, 1987 edition, as published by the National Fire Protection Association. Extension cords shall not be used in lieu of permanent wiring.

EXCEPTION: Existing buildings as classified in rule 5.607(100) may retain their electrical systems if approved by the authority having jurisdiction.

5.612(2) An approved Class IIA fire extinguisher shall be mounted and accessible on each occupied floor.

661—5.613(100) Evacuation plan and fire drills.

5.613(1) The administration of every facility shall have in effect and available to all supervisory personnel written copies of a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. The plan shall include special staff actions including fire protection procedures needed to ensure the safety of any resident.

All employees shall be periodically instructed and kept informed in respect to their duties and responsibilities under the plan. Instruction shall be reviewed by the staff at least annually. A copy of the plan shall be readily available at all times within the facility.

5.613(2) Fire exit drills shall be conducted at least 12 times per year, 4 times a year on each shift with 3 drills during the first month of operation. The drills may be announced in advance to the residents. The drills shall involve the actual evacuation of all residents to a selected assembly point and shall provide residents with experience in exiting through all exits required by the rules. Actual evacuation may not be required where security may be a problem.

Rules 5.607(100) to 5.613(100) are intended to implement Iowa Code section 135G.4.

661—5.614 to **5.619** Reserved.

661—5.620(100,135C) General requirements for small group homes (specialized licensed facilities) licensed pursuant to Iowa Code section 135C.2.

5.620(1) *Scope.* This rule applies to specialized licensed facilities licensed under the provisions of Iowa Code section 135C.2 and having three to five beds for individuals who are infirm, convalescent, or mentally or physically dependent.

5.620(2) *Exits.*

a. There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms.

b. Interior and exterior stairways shall have a minimum clear width of not less than 30 inches.

5.620(3) *Windows.* Every resident sleeping room shall have an outside window or outside door arranged and located to permit the venting of products of combustion and access to fresh air in the event of an emergency.

a. In new construction, windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches and the finished sill height shall be not more than 44 inches above the floor.

b. In existing construction the finished sill height shall be not more than 44 inches above the floor or may be accessible from a platform not more than 44 inches below the window sill.

5.620(4) *Interior finish.* Interior finish in exit shall be Class A, B or C. See Table No. 5-C, following 661—5.105(100).

5.620(5) *Doors.* Doors to resident sleeping rooms shall be a minimum of 1 3/8-inch solid core wood or equivalent.

5.620(6) *Vertical separations.* Basement stairs must be enclosed with one-hour rated partitions and 1¾-inch solid core wood doors equipped with self-closers. These doors must be kept closed unless held open by an approved electromagnetic holder, actuated by an approved smoke detection device located at the top of the stairwell and interconnected with the alarm system.

5.620(7) *Fire detection, fire alarms and sprinklers.*

a. The home shall have smoke detection installed on each occupied floor including basements in accordance with National Fire Protection Association Standard No. 74. Smoke detectors shall be interconnected so that activation of any detector will sound an audible alarm throughout. The system shall be tested by a competent person at least semiannually with date of test and name noted.

b. Homes may be protected with a sprinkler system meeting the requirements of National Fire Protection Association Standard No. 13D, 1989 edition.

5.620(8) *Fire extinguishers.*

a. Approved fire extinguishers shall be provided on each floor, so located that a person will not have to travel more than 75 feet from any point to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, each kitchen or basement storage room.

b. Type and number of portable fire extinguishers shall be determined by the fire marshal.

5.620(9) *Mechanical, electrical and building service equipment.*

a. Air conditioning, ventilating, heating, cooking and other service equipment shall be in accordance with state regulations governing same, or nationally recognized standards such as National Fire Protection Association standards governing the type of equipment, and shall be installed in accordance with the manufacturer's specifications. All hazardous areas normally found in one- and two-family dwellings, such as laundry, kitchen, heating units and closets need not be separated with walls if all equipment is installed in accordance with the manufacturer's listed instructions.

b. Portable comfort heating devices are prohibited.

5.620(10) *Attendants, evacuation plan.*

a. Every home shall have at least one staff person on the premises at all times while residents are present. This staff person shall be at least 18 years of age and capable of performing the required duties of evacuation. No person other than the management or a person under management control shall be considered as an attendant.

b. Every facility shall formulate a plan for the protection of all persons in the event of fire and for their evacuation to areas of refuge and from the building when necessary. All employees shall be instructed and kept informed respecting their duties under the plan. This plan is to be posted where all employees may readily study it. Fire drills shall be held at least once a month. Records must be kept available for inspection.

5.620(11) *Smoking.*

a. There shall be no smoking in resident sleeping areas and smoking and no smoking policies shall be strictly adhered to.

b. Ashtrays shall be constructed of noncombustible material with self-closing tops and shall be provided in all areas where smoking is permitted.

5.620(12) *Exit illumination.* Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

5.620(13) *Occupancy restrictions.*

a. Occupancies not under the control of, or not necessary to, the administration of residential care facilities are prohibited therein with the exception of the residence of the owner or manager.

b. Nonambulatory residents shall be housed only on accessible floors which have direct access to grade which does not involve stairs or elevators.

5.620(14) *Maintenance.*

a. 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, cords and switches, heating and ventilating equipment, sprinkler systems and exit facilities.

b. Storerooms shall be maintained in a neat and proper manner at all times.

c. Excessive storage of combustible materials such as papers, cartons, magazines, paints, sprays, old clothing, furniture and similar materials shall be prohibited at all times.

This rule is intended to implement Iowa Code section 135C.2(5)*"b."*

661—5.621 to **5.624** Reserved.

661—5.625(100,231B) Elder group homes. This rule applies to elder group homes certified by the Iowa department of elder affairs.

5.625(1) *Definitions.* The following definitions apply to rule 661—5.625(100,231B):

"Elder" means a person 60 years of age or older.

"Elder group home" means a single family residence that is the residence of a person who is providing room, board, and personal care to three to five elders who are not related to the person providing the service within the third degree of consanguinity or affinity and which is certified as an elder group home by the Iowa department of elder affairs.

5.625(2) *Exits.* There shall be a minimum of two approved exits from the main level of the home and from each level with resident sleeping rooms. Interior and exterior exit stairways shall have a minimum clear width of not less than 30 inches.

5.625(3) *Windows.* Each resident sleeping room shall have an outside window or outside door arranged and located to provide ventilation, access to fresh air, and an emergency escape route. New or replacement windows shall have a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches, and the finished sill height shall not be more than 44 inches above the floor.

5.625(4) *Interior finish.* Interior finish in resident occupied areas shall be Class A or B in accordance with Table 5-C, 661 IAC 5.105(100).

5.625(5) *Doors.* Door to resident sleeping rooms shall be a minimum of one and three-eighths inches solid core wood or equivalent.

5.625(6) *Fire detection.* An elder group home shall have smoke detectors installed on each floor, including the basement, and in each sleeping room, in accordance with National Fire Protection Association # 74, Standard for Household Fire Warning Equipment, 1989 edition, and 661 IAC 5.807(100). Smoke detectors shall be interconnected so that activation of any detector will activate detectors throughout the home.

5.625(7) *Fire extinguishers.* Fire extinguishers shall be provided on each floor and shall be located so that a person will not have to travel any more than 75 feet from any point in the home to reach the nearest extinguisher. An additional extinguisher shall be provided in, or adjacent to, the kitchen. Type, distribution, inspection, maintenance, and recharging of extinguishers shall conform to National Fire Protection Association # 10, Standard for Portable Fire Extinguishers, 1990 edition.

5.625(8) *Smoking.* There shall be no smoking in resident sleeping rooms. Smoking may be permitted in designated areas only. If an indoor area within an elder group home is designated as a smoking area, that area shall be equipped with ashtrays constructed of noncombustible material and with self-closing tops.

5.625(9) *Exit illumination.* Approved rechargeable battery-powered emergency lighting shall be installed to provide automatic exit illumination in the event of failure of the normal lighting system.

5.625(10) *Maintenance.* All fire and life safety equipment or devices shall be U.L. or independent testing laboratory approved, installed according to manufacturer specifications, and regularly and properly maintained at all times in accordance with nationally recognized standards. This includes, but is not limited to, fire extinguishing equipment, alarm systems, doors and their appurtenances, and exit facilities. Flammable and combustible materials shall be properly stored in original, properly labeled containers or approved safety containers. Storerooms shall be maintained in a neat and proper manner at all times. Excessive storage of combustible materials is not permitted.

5.625(11) *Equipment.* Electrical, heating, and ventilating equipment shall be installed and maintained in accordance with manufacturer's instructions and nationally recognized standards. Portable space heaters are not permitted.

5.625(12) *Emergency procedures.* Every home shall formulate a plan for the protection of occupants in the event of a fire or other emergency. The plan shall take into consideration areas of refuge within the building as well as evacuation from it. The written plan must be provided to each resident and explained to them at the time they move into the facility and at least annually thereafter.

5.625(13) *Compressed gases.* If oxygen or other compressed gases are required by residents for respiratory purposes, the applicable standards for use, containers, equipment, maintenance and storage of compressed gases, as set forth in National Fire Protection Association # 99, 1993 edition, shall be adhered to.

5.625(14) *Basements.* Interior basement stairways, if enclosed, must have walls and ceilings constructed of five-eighths inch gypsum board or material providing equivalent fire protection. Basements must be separated from the first floor by a self-closing one and three-eighths inch solid wood core door or equivalent. If a basement is used by residents, it must have a door leading to the outside or an operational window having a minimum net clear openable area of 5.7 square feet, minimum net clear openable height of 24 inches, minimum net clear openable width of 20 inches, and the finished sill height shall not be more than 44 inches above the floor.

5.625(15) *Construction.* Unprotected wood frame structures of more than two stories in height, excluding basement, shall not be permitted for use as elder group homes.

EXCEPTION: Unprotected wood frame structures protected throughout by an approved automatic sprinkler system may be used as elder group homes.

This rule is intended to implement Iowa Code chapter 100 and section 231B.2.

661—5.626(231C) Assisted living housing.

5.626(1) *Definitions.* The following definitions apply to rule 661—5.626(231C):

"Assisted living" means provisions of housing with services which may include but are not limited to health-related care, personal care and assistance with instrumental activities of daily living to six or more tenants that are certified by the department of elder affairs or voluntarily accredited.

"Existing assisted living facility" is an assisted living facility operating on or before June 30, 1997, or which was in use on or before June 30, 1997, in another category or categories of state-licensed, long-term residential care facilities and was converted after that date to use as an assisted living facility.

"New assisted living facility" is an assisted living facility which begins operation on or after July 1, 1997, and was not in operation prior to July 1, 1997, in any category of state-licensed, long-term care facility.

5.626(2) *New assisted living facilities.* The standard "NFPA 101, Chapter 22, New Residential Board and Care Occupancies," 1994 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing new assisted living facilities, with the following deletion:

Delete the definition of "Residential board and care occupancy" from Section 22-1.3.

5.626(3) *Existing assisted living facilities.* The standard "NFPA 101, Chapter 23, Existing Residential Board and Care Occupancies," 1994 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, is hereby adopted by reference as the rules governing assisted living facilities in existing apartments and in those buildings that are converted from other classifications of state-licensed, long-term residential care facilities with the following deletion:

Delete the definition of "Residential board and care occupancy" from Section 23-1.3.

This rule is intended to implement Iowa Code chapter 231C.

661—5.627 to **5.649** Reserved.

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FIRE SAFETY RULES FOR SCHOOL AND COLLEGE BUILDINGS

661—5.650(100) General requirements.

5.650(1) Every building or structure, new or old, designed for school or college occupancy, shall be provided with exits sufficient to permit the prompt escape of students and teachers in case of fire or other emergency. The design of exits and other safeguards shall be such that reliance for safety to life in case of fire or other emergencies will not depend solely on any single safeguard; additional safeguards shall be provided for life safety in case any single safeguard is ineffective due to some human or mechanical failure.

5.650(2) Every building or structure shall be so constructed, arranged, equipped, maintained and operated as to avoid undue danger to lives and safety of its occupants from fire, smoke, fumes or resulting panic during the period of time reasonably necessary for escape from the building or structure in case of fire or other emergency.

5.650(3) Exits shall be provided of kinds, numbers, location and capacity appropriate to the individual building or structure, with due regard to the character of the occupancy, the number of persons exposed, the fire protection available and the height and type of construction of the building or structure, to afford all occupants convenient facilities for escape.

5.650(4) Fire escapes, where specified, shall be installed and the design and use of materials shall be in accordance with subrule 5.101(4).

5.650(5) All changes or alterations to be made in any school or college building, whether new or existing, shall conform with the applicable provisions of these rules and before any construction of new or additional installation is undertaken, drawings and specifications thereof made to scale shall be submitted to the state fire marshal, in duplicate, for approval. Within a reasonable time (normally ten working days) after receipt of the drawings and specifications, the state fire marshal shall cause the same to be examined and if they conform as submitted or modified with the requirements of this division, the state fire marshal shall signify approval of the application either by endorsement thereon or by attachment thereto, retain one copy for the files and return to the applicant the other copy plus any additional copies submitted by the applicant. If the drawings and specifications do not conform with applicable requirements of this division the state fire marshal shall notify the applicant accordingly.

5.650(6) Each school building of two or more classrooms, not having a principal or superintendent on duty, shall have a teacher appointed by the school officials to supervise school fire drills and be in charge in event of fire or other emergency. This subrule shall not apply to college buildings.

5.650(7) Compliance with these rules shall not be construed as eliminating or reducing the necessity for other provisions for fire safety of persons using a school or college building under normal occupancy conditions nor shall any provision of these rules be construed as requiring or permitting any conditions that may be hazardous under normal occupancy conditions.

5.650(8) Rescinded IAB 9/16/92, effective 11/1/92.

661—5.651(100) Definitions.

Approved. Approved is defined as being acceptable to the state fire marshal. Any equipment or device which bears the seal of the Underwriters Laboratories, Inc., Factory Mutual Laboratory, American Standards Association, or the American Gas Association shall be accepted as approved. In the case of standards for safety, the criteria shall be the National Fire codes as published by the National Fire Protection Association.

Basement. A usable or unused floor space not meeting the definition of a story or first story.

Classroom. Any room originally designed, or later suitably adapted to accommodate some form of group instruction on a day-by-day basis, excluding such areas as auditoriums, gymnasiums, lunchrooms, libraries, multipurpose rooms, study halls and similar areas. Storage and other service areas opening into and serving as an adjunct to a particular classroom shall be considered as part of that classroom area.

Elementary school. An elementary school shall be those buildings that include kindergarten through sixth grade (K-6).

Exit. An exit is a way to get from the interior of a building or structure to the open air outside at the ground level. It may comprise vertical and horizontal means of travel such as doorways, stairways, ramps, corridors, passageways and fire escapes. An exit begins at any doorway or other point from which occupants may proceed to the exterior of the building or structure with reasonable safety under emergency conditions.

Fire alarm system. A fire alarm system shall be an electrically energized system approved by the state fire marshal, using component parts approved by the Underwriters Laboratories, Inc., and providing facilities of a type to warn the occupants of an existence of fire so that they may escape or to facilitate the orderly conduct of fire exit drills.

First story. The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet below grade, as defined herein, at any point.

Interior finish. See Table No. 5-C following 661—5.105(100).

Level of exit discharge. The level or levels with direct access to grade which do not involve the use of stairs or ramps. The level with the fewest steps shall be the level of exit discharge when no level exists directly to grade. In the event of a dispute, the state fire marshal shall determine which level is the level of exit discharge.

New construction. Those buildings designed and constructed after the effective date of these rules.

Portable classroom building. A building designed and constructed so that it can be disassembled and transported to another location, or transported to another location without disassembling.

School and college buildings. For the purpose of these rules, school and college buildings are those used as a gathering of groups of six or more persons for more than 12 hours per week or 4 hours in any one day for the purpose of instruction. These occupancies are distinguished from other types of occupancies in that the same occupants are regularly present and are subject to discipline and control. School and college occupancies include: schools, academies, kindergartens and colleges.

Story. 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 underfloor space is more than 6 feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused underfloor space shall be considered as a story.

661—5.652(100) Exits.

5.652(1) The population of all school buildings, for the purpose of determining the required exits and the required space for classroom use shall be determined on the following basis:

a. The square feet of floor space for persons in school buildings shall be one person for each 40 square feet of gross area.

b. In the case of individual classrooms in schools, there shall be 20 square feet of classroom space for each student.

c. In gymnasiums and auditoriums, the capacity for seating shall be on the basis of 6 square feet net per person.

5.652(2) Exits shall be provided of kinds, numbers, location and capacity appropriate to the individual building.

5.652(3) Exits shall be so arranged and maintained as to provide free and unobstructed egress from all parts of every building or structure at all times when the building or structure is occupied. No locks or fasteners to prevent free escape from the inside of any building shall be installed.

5.652(4) Exits shall be clearly visible or routes to reach them shall be conspicuously indicated in such manner that every occupant of every educational building who is physically and mentally capable will readily know the direction of the escape from any point and each path of escape in its entirety shall be so arranged or marked that the way to a place of safety outside is unmistakable.

5.652(5) In all school buildings where artificial illumination is needed, electric exit signs or directional indicators shall be installed and adequate lighting provided for all corridors and passageways.

5.652(6) Where additional outside stairs or fire escapes are required by law, they shall be 44 inches wide and shall extend to the ground. Platforms for outside stairs or fire escapes shall have a minimum dimension of 44 inches. Outside stairs and fire escapes shall be constructed in accordance with 661—5.101(4). Fire escapes shall not be permitted on new construction.

5.652(7) There shall be a minimum of two means of exit remote from each other from each floor of every school building. The traveled distance from any point to an exit shall not exceed 150 feet measured along the line of travel. In sprinklered buildings, the distance may be increased to 200 feet.

5.652(8) Every room with a capacity of 50 persons or over and having more than 1,000 square feet of floor area shall have at least two doorways as remote from each other as practicable. Such doorways shall provide access to separate exits but may open onto a common corridor leading to separate exits in opposite directions.

5.652(9) Each elementary classroom shall have a secondary avenue of escape. This may be a door leading directly outside the building, a window [see 5.655(100)], another door to an alternate corridor or a connecting door to a second room and thence to a secondary route of escape. In one-room classroom buildings the second exit shall be a door remote from the door used for normal entrance.

5.652(10) In new construction, rooms normally occupied by preschool, kindergarten or first grade pupils shall not be located above or below the level of exit discharge. Rooms normally occupied by second grade pupils shall not be located more than one story above the level of exit discharge. This subrule shall be effective for all existing buildings by July 1, 1993.

661—5.653(100) Corridors.

5.653(1) Corridors used as means of access to exits, and corridors used for discharge from exits, shall provide a clearance of at least 6 feet in width, except in the case of buildings constructed prior to the effective date of this rule. Room doors or locker doors swinging into corridors shall not, at any point in the swing, reduce the clear effective width of the corridor to less than 6 feet, nor shall drinking fountains or other equipment, fixed or movable, be so placed as to obstruct the required minimum 6-foot width.

5.653(2) *Open clothing storage in existing buildings.*

a. In existing buildings, where clothes are hung exposed in exit corridors, they shall be separated by partitions of sheet metal or equivalent material. Partitions shall be placed at 6-foot intervals, be a minimum of 18 inches in depth, extend at least 1 foot above the coat hooks and within 8 inches of the floor.

b. Where open clothing is hung in exit corridors as described above, an automatic fire detection system shall be installed in the corridor. Sprinkler systems may be installed in lieu of the automatic detection system.

5.653(3) In new construction, open clothing storage shall not be permitted in exit corridors.

5.653(4) Except as permitted in 5.653(2), no combustible materials shall be stored in exit corridors.

5.653(5) The walls of corridors, used for exit facilities, shall be solid partitions of noncombustible finish material.

5.653(6) Where borrowed light panels of clear glass are used in exit corridors, the requirements of 5.667(100) shall apply, except that clear glass windows in doors and transoms may be permitted in existing buildings when nonhazardous activities are carried on in the classroom.

5.653(7) Any single corridor or combination of corridors having an unbroken length of 300 feet or more shall be divided into sections by smoke barriers consisting of smoke stop doors. Doors may be of ordinary solid wood type not less than 1¾-inch thick with clear wired glass panels. Such doors shall be of self-closing type and may be either single or double. They shall close the opening completely with only such clearance as is reasonably necessary for proper operation. Underwriters Laboratories, Inc., listed electromagnetic holders may be used to hold these doors open provided they are hooked into the fire alarm system and a smoke detector is located at a strategic point near the doors.

5.653(8) There shall be no dead end in any corridor or hall more than 20 feet beyond the exit.

661—5.654(100) Doors.

5.654(1) The entrance and exit doors of all school buildings and the doors of all classrooms shall open outward.

5.654(2) Doors shall be provided for main exit facilities leading to a platform connecting with either outside stairs or fire escapes. Doors leading to outside stairways or fire escapes shall have a minimum width of 40 inches, except that on existing buildings where it is not practical to install a door of 40-inch width, a narrower door at least 30 inches in width may be installed.

5.654(3) The main exit and entrance doors and doors leading to fire escapes shall be equipped with panic-type latches that cannot be locked against the exit.

5.654(4) Doors protecting stairways and doors leading to fire escapes or outside stairs may have wire glass panes installed providing that the size of any single pane does not exceed 900 square inches.

5.654(5) Doors protecting vertical openings or fire doors installed where protection of hazardous rooms or areas are required shall be equipped with door closers and shall not be blocked open. Underwriters Laboratories, Inc., listed electromagnetic holders may be used to hold these doors open provided they are hooked into the fire alarm system and a smoke detector is located at a strategic point near the doors.

5.654(6) *Classroom doors.*

a. Classroom doors, in new construction, shall be 36 inches wide. In existing buildings, doors of not less than 30 inches in width may be used. Doors must be a minimum of 1¾-inch solid core wood.

b. School buildings designed without doors to classrooms shall meet the requirements of 5.667(100).

5.654(7) Boiler-, furnace- or fuel-room doors, communicating to other building areas, shall be 1½-hour rated doors and frames, normally closed and hung to swing into the boiler room.

5.654(8) Doors to storage of combustibles off corridors shall be at least 1¾-inch solid core wood.

5.654(9) Doors from classrooms to corridors may have closeable louvers up to 24 inches above the floor. No other louvers or openable transoms shall be permitted in corridor partitions.

661—5.655(100) Windows.

5.655(1) Windows below or within 10 feet of an outside stairway or fire escape shall have panes of wire glass.

5.655(2) Emergency rescue or ventilation.

a. In new construction, every room or space used for classroom or other educational purposes or subject to normally scheduled student occupancy shall have at least one outside window for emergency rescue or ventilation. Such window shall be openable from the inside without the use of tools and provide a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of the opening shall be not more than 44 inches above the floor.

EXCEPTION 1: Buildings protected throughout by an approved automatic sprinkler system.

EXCEPTION 2: Rooms or spaces that have a door leading directly to the outside of the building.

EXCEPTION 3: Fire-resistive or noncombustible buildings protected throughout by a complete automatic fire detection system.

b. The requirements of 5.655(2)*"a"* shall be effective for all existing school buildings by July 1, 1993.

EXCEPTION 1: Existing awning or hopper-type windows with a clear opening of 600 square inches may be continued in use.

EXCEPTION 2: Doors that allow travel between adjacent classrooms and, when used to travel from classroom to classroom, provide direct access to exits in both directions or direct access to an exit in one direction and to a separate smoke compartment that provides access to another exit in the other direction.

EXCEPTION 3: Buildings protected by an approved automatic fire detection system.

661—5.656(100) Stairway enclosures and floor cutoffs.

5.656(1) In buildings of more than one story, stairs shall be enclosed with protected noncombustible construction except those in accordance with 5.656(2). Doors shall be 1¾-inch solid wood construction, or better, with wire glass allowable.

5.656(2) In existing buildings of two stories with no basement, where such buildings are fire-resistive construction throughout, or fire-resistive first story and noncombustible or heavy timber second story, the stairs need not be enclosed, provided, *(a)* all exit-way finish is Class A [flame spread rating not exceeding 25], *(b)* no open storage of wardrobe, books, or furniture in exit ways or spaces common to them and *(c)* the stairs from the second floor lead directly to an outside door or vestibule leading to the outside of the building.

5.656(3) In new construction, the enclosures or protection of vertical openings shall be of the same type of construction as the surrounding material used for walls and partitions.

5.656(4) In existing buildings, the stairway enclosures or the protection of vertical openings shall be the equivalent of wood studding with gypsum lath and plaster on both sides. The doors shall be at least 1¾-inch solid core wood doors. Maximum 900 square inch glass panels allowable.

5.656(5) Stairways from boiler, furnace or fuel rooms, communicating to other building areas, shall be enclosed at top and bottom. The entire stair enclosure shall be noncombustible construction. The doors (other than to the boiler room) may be 1¾-inch solid wood with a maximum of 900 square inches of wired glass allowable.

5.656(6) Except as provided elsewhere in this section, interior stairways used as exits shall be enclosed. The construction of the enclosure shall be in accordance with the provisions of 5.656(1).

5.656(7) Cutoffs between floors for stairways not used as exit facilities shall use the same type of construction as provided in 5.656(1).

661—5.657(100) Interior finishes.

5.657(1) Interior finish shall be Class A in exit and Class A or B in access to exits. See Table No. 5-C following 661—5.105(100).

5.657(2) Whenever the fire marshal determines the fire hazard is great enough, Class A materials for room finishes shall be used in science laboratories, shop areas and such other areas as the fire marshal shall designate, in addition to those areas designated by 5.657(1).

5.657(3) In existing buildings, ceiling finishes not meeting the requirements of 5.657(1) may be corrected by the use of a fire-retardant treatment.

661—5.658(100) Construction.

5.658(1) Types of construction as defined in the National Fire Protection Association Pamphlet No. 220, Standard Types of Building Construction, 1961.

a. Fire resistive.

b. Heavy timber.

c. Noncombustible.

d. Ordinary.

e. Wood frame.

5.658(2) Noncombustible, ordinary or wood frame construction may be modified by using materials giving one-hour or greater fire protection.

5.658(3) Types of construction permitted:

a. One-story buildings and one-story wings on multistory buildings may be any of the types designated in 5.658(1), or combinations thereof, but with ordinary or wood frame construction, protected materials shall be used.

b. One-room portable classroom buildings may be of lesser construction provided the interior finish of the classrooms complies with 5.657(2) and 5.657(3) as use requires. Only noncombustible types of insulation may be used in such instances and each building shall be a minimum of 20 feet from another building.

c. Two-story buildings may be constructed of fire-resistive or protected noncombustible materials throughout, or the first story may be constructed of fire-resistive or protected noncombustible materials with the second story having either heavy timber or noncombustible materials.

d. Buildings of more than two stories shall be fire-resistive throughout.

5.658(4) Construction of the floor located above a basement shall be of fire-resistive or protected noncombustible materials.

5.658(5) Construction of the floor located above a crawl space or a pipe tunnel shall be of fire-resistive or noncombustible materials except in portable one-room classroom buildings an Underwriters Laboratories, Inc., approved fire-retardant paint may be used.

5.658(6) Portable classroom buildings shall maintain a minimum of 20 feet distance from another building if complying with 5.658(3)*"b."* One-room portable classroom buildings located 20 feet or less between adjacent walls shall have not less than a one-hour, fire-rated separation. All portable classroom buildings with raised floors shall be skirted to the ground with material equal to the siding of the building.

5.658(7) Boiler rooms, furnace rooms or fuel rooms which have no stories located above may be constructed of fire-resistive, noncombustible, protected heavy timber or protected ordinary materials.

5.658(8) Boiler rooms, furnace rooms or fuel rooms with building above shall be of two-hour, fire-resistive construction.

661—5.659(100) Fire alarm systems.

5.659(1) All schools having two or more classrooms shall be equipped with a fire alarm system. Alarm stations shall be provided on each floor and so located that the alarm station is not more than 75 feet from any classroom door within the building. Horns or bells that provide a distinctive sound different from other bell systems shall be provided that will give audible warning to all occupants of the building in case of a fire or other emergency. A test device shall be provided for the purpose of conducting fire drills and tests of the alarm system. One-room classroom buildings placed in a complex of other classrooms shall be connected to the central alarm system.

5.659(2) Underwriters Laboratories, Inc., equipment and component parts shall be used in the installation of the fire alarm system. The electrical energy for the fire alarm system shall be on a separate circuit and shall be taken off the utility service to the school building ahead of the entrance disconnect.

5.659(3) Whenever the fire marshal determines it advisable, the fire marshal may require that the fire alarm system be extended or designed to provide automatic fire detection devices in unsupervised areas, boiler rooms, storerooms or shop areas.

661—5.660(100) Electrical wiring.

5.660(1) The electrical wiring of any educational building shall have enough circuits to provide adequate service without the need of overfusing the circuits.

5.660(2) The electrical wiring and component parts shall be properly maintained and serviced so as to eliminate the overheating or shorting that could cause a fire.

5.660(3) In new construction, electrical wiring shall be in metal raceways.

5.660(4) All exit lights shall be connected ahead of the service disconnect.

661—5.661(100) Heating equipment.

5.661(1) Heating equipment shall be installed, where applicable, in rooms constructed in accordance with 5.658(6) and 5.658(7).

5.661(2) Installation for any heating equipment shall be in accordance with the manufacturer's instruction and conditions of safe operation.

5.661(3) Acceptable evidence for complying with 5.661(2) shall be labeling or listed equipment by Underwriters Laboratories, Inc., The American Gas Association Testing Laboratories, or approval of the state fire marshal.

5.661(4) Oil burning equipment shall be installed, maintained and operated in accordance with 5.350(101) of the flammable liquid rules of the state of Iowa.

5.661(5) All gas burning equipment shall be installed and maintained in accordance with 5.250(101) of the liquefied petroleum gas rules of the state of Iowa.

5.661(6) Floor-mounted flame heating equipment shall not be allowed to be installed in any classroom.

661—5.662(100) Gas piping.

5.662(1) Gas piping shall be in accordance with 5.250(101) of the liquid petroleum gas rules of the state of Iowa.

5.662(2) All gas service lines into buildings shall be brought out of the ground before entering the building and shall be equipped with a shutoff valve outside the building.

5.662(3) Gas piping cannot run in enclosed space without proper venting.

661—5.663(100) Fire extinguishers.

5.663(1) Each school building shall be equipped with fire extinguishers of a type, size and number approved by the state fire marshal.

5.663(2) National Fire Protection Association Standard No. 10, Installation of Portable Fire Extinguishers, 1988, is applicable. Vaporizing extinguishers containing halogenated hydrocarbon extinguishing agents shall not be approved except in accordance with 661—5.40(17A,80,100).

661—5.664(100) Basement, underground and windowless educational buildings.

5.664(1) In existing school buildings, basement classrooms may be used provided there is compliance with either paragraphs *"a"* and *"d,"* or compliance with paragraphs *"b," "c," "d"* and *"e"* below.

a. Direct approved egress door from classrooms to the outside.

b. Classroom doors open into a corridor that leads directly outside.

c. Inside stairs from basement corridors, serving basement classrooms, shall not communicate with other stories above.

d. Doors from basement classroom corridors, to other areas of the basement, shall be at least 1¾-inch solid core wood and equipped with door closers.

e. Buildings, unless of fire-resistive construction, using the basement area for classroom purposes, shall have sprinkler or automatic alarm systems in the entire basement area.

5.664(2) In new construction, basement rooms shall not be used for classroom purposes in elementary and junior high school buildings. This provision shall not apply to that portion of a building built on a sloping site which faces the lower grade level.

5.664(3) After October 17, 1969, in new construction only, underground or windowless educational buildings shall be provided with complete approved, automatic sprinkler systems.

5.664(4) After October 17, 1969, in new construction only, underground or windowless educational buildings shall have approved automatic smoke venting facilities in addition to automatic sprinkler protection.

5.664(5) After October 17, 1969, in new construction only, underground or windowless educational buildings for which no natural lighting is provided shall be provided with an approved-type emergency exit lighting system.

5.664(6) After October 17, 1969, in new construction only, where required exit from underground structures involves upward travel, such as ascending stairs or ramp, such upward exits shall be cut off from main floor areas. If the area contains any combustible contents or combustible interior finish, it shall be provided with outside vented smoke traps or other means to prevent the exit serving as flues for smoke from any fire in the area served by the exits, thereby making the exit impassable.

5.664(7) After October 17, 1969, in new construction only, every windowless building shall be provided with outside access panels on each floor level, designed for fire department access from ladders for purposes of ventilation and rescue of trapped occupants.

661—5.665(100) Fire hazard safeguards in new and existing buildings.

5.665(1) Ventilating ducts discharging into attics of combustible construction shall be blocked off, protected with fire dampers or extended in a standard manner through the roof.

5.665(2) Cooking ranges and other cooking appliances in food service area kitchens shall be provided with ventilating hoods, grease filters, and shall be vented to the outside in an approved manner.

5.665(3) Discarded furniture, furnishings or other combustible material shall not be stored or allowed to accumulate in attics or concealed spaces. Designated storage space shall be provided for equipment that may be used periodically throughout the school year and necessary to the school operation or curriculum schedule.

5.665(4) Space under stairways in existing buildings shall not be used for storage unless the storage area is lined with material that will provide a one-hour, fire-resistant rating and provided with a tight-fitting door that has a comparable fire-resistant rating. Except when removing or storing stock, the door shall be kept closed and locked.

5.665(5) Wastepaper baling and storage shall be in a room without ignition hazards and separated from other parts of the building by fire-resistant construction. Storage of paint products and flammable liquids shall be in a fire-resistive room or approved metal cabinet.

5.665(6) Decorative materials.

a. No furnishings, decorations, wall coverings, paints, etc., shall be used which are of a highly flammable character or which in the amounts used will endanger egress due to rapid spread of fire or formation of heavy smoke or toxic gases.

b. Highly flammable finishes such as lacquer and shellac are not permitted.

c. Draperies, curtains, loosely attached wall coverings, cloth hangings and similar materials shall be noncombustible or flame-proof in corridor exit ways and assembly occupancies. In other areas up to 10 percent of the wall area may have combustible coverings and hangings.

5.665(7) Spray finishing operations shall not be conducted in a school building except in a room designed for the purpose, protected with an approved automatic extinguishing system, and separated vertically and horizontally from such occupancies by construction having not less than two-hour fire resistance. National Fire Protection Association Standard No. 33, Spray Finishing, 1985, shall be applicable for construction and operation of all paint spray booths.

661—5.666(100) Automatic sprinklers.

5.666(1) Where automatic sprinkler protection is provided, other requirements of these regulations may be modified to such extent as permitted by other provisions in this section.

5.666(2) Automatic sprinkler systems shall be of standard, approved types so installed and maintained as to provide complete coverage for all portions of the premises protected, except insofar as partial protection is specified in other paragraphs of this section.

5.666(3) Automatic sprinkler systems for schools shall be those designed to protect occupancy classifications that are considered light hazard occupancies.

5.666(4) Automatic sprinkler systems shall be provided with water flow alarm devices to give warning of operation of the sprinkler due to fire, and such alarm devices shall be installed so as to give warning throughout the entire school building. The sprinkler alarm detection may be connected to the fire alarm system required by state law.

5.666(5) Partial automatic sprinkler systems shall provide complete protection in the basement and other hazardous areas. Above the basement area, stairwells and corridors shall be sprinklered. Non-hazardous classrooms are not required to be sprinklered for partial systems.

5.666(6) Water supplies.

a. All automatic sprinklers installed in school buildings shall be provided with adequate and reliable water supplies.

b. Public water supplies for sprinkler systems in schools shall have a minimum of 4-inch service pipe providing a minimum of 500 gallons of water per minute and shall have at least 15 pounds pressure at the highest sprinkler head.

c. Where public water supply is not available and a pressure supply tank is used, the tank shall be a minimum of 6,000 gallons capacity. The pressure tank shall operate at an air pressure adequate to discharge all of the water in the tank.

5.666(7) All automatic sprinkler systems required by these regulations shall be maintained in a reliable operating condition at all times and such periodic inspections and tests as are necessary shall be made to ensure proper maintenance.

5.666(8) In existing buildings of ordinary or better construction, stairway enclosures will not be required if protected by a partial or standard sprinkler system. Basement cutoffs of vertical openings will be required. This modification of open stairways is permitted only in buildings that do not exceed a basement and two full stories.

661—5.667(100) Open plan buildings.

5.667(1) An "open plan building" is defined as any building where there are no permanent solid partitions between rooms or between rooms and corridors that are used for exit facilities.

5.667(2) Open plan buildings shall have enclosed stairways and any other vertical openings between floors protected in accordance with 5.666(1).

5.667(3) Open plan buildings shall not exceed 30,000 square feet in undivided area. Solid walls or smoke stop partitions shall be provided at intervals not to exceed 300 feet. Such walls or partitions shall have doors of a type that are at least 1¾-inch solid core wood doors and the partitions shall be the equivalent of one-hour construction.

5.667(4) Any cafeterias, gymnasiums or auditoriums shall be separated from the rest of the building by solid walls and no exits from other parts of the building shall require passing through such assembly areas.

5.667(5) Open plan buildings that do not have a direct exit door from each classroom to the outside shall be protected by a complete automatic fire detection system.

5.667(6) A sprinkler system may be installed in lieu of an automatic fire detection system in an open plan building.

5.667(7) Distance of travel to the nearest exit in an open plan building shall not exceed 100 feet from any point except that in a sprinklered building the distance may be increased to 150 feet.

Rules 5.650(100) to 5.667(100) are intended to implement Iowa Code section 100.35.

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661—5.668 to 5.699 Reserved.

NEW COLLEGE BUILDINGS

661—5.700(100) Exits.

5.700(1) Exits shall be provided of kinds, numbers, location and capacity appropriate to the individual building or structure, with due regard to the character of the occupancy, the number of persons exposed, the fire protection available, and the height and type of construction of the building or structure, to afford all occupants convenient facilities for escape.

5.700(2) The population of all college buildings, for the purpose of determining the required exits and the required space for classroom use, shall be determined on the following basis.

a. The square feet of floor space for persons in college buildings shall be one person for each 40 square feet of gross area.

b. In gymnasiums and auditoriums, the capacity for seating shall be on the basis of 6 square feet net per person.

5.700(3) Exits shall be so arranged and maintained as to provide free and unobstructed egress from all parts of every building or structure at all times when the building or structure is occupied. No locks or fasteners to prevent free escape from the inside of any building shall be installed.

5.700(4) Exits shall be clearly visible or routes to reach them shall be conspicuously indicated in such manner that every occupant of every educational building who is physically and mentally capable will readily know the direction of the escape from any point and each path of escape in its entirety shall be so arranged or marked that the way to a place of safety outside is unmistakable.

5.700(5) In all college buildings where artificial illumination is needed, electric exit signs or directional indicators shall be installed and adequate lighting provided for all corridors and passageways.

5.700(6) Fire escapes shall not be permitted on new construction.

5.700(7) There shall be a minimum of two means of exit remote from each other from each floor of every college building. The traveled distance from any point to an exit shall not exceed 150 feet measured along the line of travel. In sprinklered buildings, the distance may be increased to 200 feet.

5.700(8) Every room with a capacity of 50 persons or over and having more than 1,000 square feet of floor area shall have at least two doorways as remote from each other as practicable. Such doorways shall provide access to separate exits but may open onto a common corridor leading to separate exits in opposite directions.

661—5.701(100) Corridors.

5.701(1) Corridors used as means of access to exits, and corridors used for discharge from exits, shall provide a clearance of at least 6 feet in width. Room doors or locker doors swinging into corridors shall not, at any point in the swing, reduce the clear effective width of the corridor to less than 6 feet, nor shall drinking fountains or other equipment, fixed or movable, be so placed as to obstruct the required minimum 6-foot width.

5.701(2) In new construction, open clothing storage shall not be permitted in exit corridors.

5.701(3) No combustible materials shall be stored in exit corridors.

5.701(4) The walls of corridors, used for exit facilities, shall be solid partitions of noncombustible finish material.

5.701(5) Where borrowed light panels of clear glass are used in exit corridors, the requirements of 5.714(100) shall apply.

5.701(6) Any single corridor or combination of corridors having an unbroken length of 300 feet or more shall be divided into sections by smoke barriers consisting of smoke stop doors. Doors may be of ordinary solid wood type not less than 1¾ inches thick with clear wired glass panels. Such doors shall be of self-closing type and may be either single or double. They shall close the opening completely with only such clearance as is reasonably necessary for proper operation. Underwriters Laboratories, Inc., listed electromagnetic holders may be used to hold these doors open provided they are hooked into the fire alarm system and a smoke detector is located at a strategic point near the doors.

5.701(7) There shall be no dead end in any corridor or hall more than 20 feet beyond the exit.

661—5.702(100) Doors.

5.702(1) The entrance and exit doors of all college buildings and the doors of all classrooms shall open outward.

5.702(2) Doors protecting stairways may have wire glass panes installed providing that the size of any single pane does not exceed 900 square inches.

5.702(3) Doors protecting vertical openings or fire doors installed where protection of hazardous rooms or areas are required shall be equipped with door closers and shall not be blocked open. Underwriters Laboratories, Inc., listed electromagnetic holders may be used to hold these doors open provided they are hooked into the fire alarm system and a smoke detector is located at a strategic point near the doors.

5.702(4) Classroom doors.

a. Classroom doors shall be 36 inches wide. Doors must be a minimum of 1¾-inch solid core wood.

b. College buildings designed without doors to classrooms shall meet the requirements of 5.714(100).

5.702(5) Boiler, furnace or fuel room doors, communicating to other building areas, shall be one and one-half hour rated doors and frames, normally closed and hung to swing into the boiler room.

5.702(6) Doors to storage of combustibles off corridors shall be at least 1¾-inch solid core wood.

5.702(7) Doors from classrooms to corridors may have closeable louvers up to 24 inches above the floor. No other louvers or openable transoms shall be permitted in corridor partitions.

661—5.703(100) Stairway enclosures and floor cutoffs.

5.703(1) In new college buildings, stairs shall be enclosed with protected noncombustible construction. Doors shall be 1¾-inch solid wood construction, or better, with wire glass allowable.

5.703(2) In new construction, the enclosures or protection of vertical openings shall be of the same type of construction as the surrounding material used for walls and partitions.

5.703(3) Stairways from boiler, furnace or fuel rooms, communicating to other building areas, shall be enclosed at top and bottom. The entire stair enclosure shall be noncombustible construction. The doors (other than to the boiler room) may be 1¾-inch solid wood with a maximum of 900 square inches of wired glass allowable.

661—5.704(100) Interior finishes.

5.704(1) Interior finish shall be Class A in exit and Class A or B in access to exits. See Table No. 5-C following 661—5.105(100).

5.704(2) Whenever the fire marshal determines the fire hazard is great enough, Class A materials for room finishes shall be used in science laboratories, shop areas and such other areas as the fire marshal shall designate, in addition to those areas designated by 5.704(1).

661—5.705(100) Construction.

5.705(1) Types of construction as defined in the National Fire Protection Association Pamphlet No. 220, Standard Types of Building Construction, 1961:

a. Fire resistive.

b. Heavy timber.

c. Noncombustible.

d. Ordinary.

e. Wood frame.

5.705(2) Noncombustible, ordinary or wood frame construction may be modified by using materials giving one-hour or greater fire protection.

5.705(3) Types of construction permitted:

a. One-story buildings and one-story wings on multistory buildings may be any of the types designated in 5.705(1), or combinations thereof, but with ordinary or wood frame construction, protected materials shall be used.

b. One-room portable classroom buildings may be of lesser construction provided the interior finish of the classroom complies with 5.657(2) and 5.657(3) as use requires. Only noncombustible types of insulation may be used in such instances and each building shall be a minimum of 20 feet from another building.

c. Two-story buildings may be constructed of fire-resistive or protected noncombustible materials throughout, or the first story may be constructed of fire-resistive or protected noncombustible materials with the second story having either heavy timber or noncombustible materials.

d. Buildings of more than two stories shall be fire-resistive throughout.

5.705(4) Construction of the floor located above a basement shall be of fire-resistive or protected noncombustible materials.

5.705(5) Construction of the floor located above a crawl space or a pipe tunnel shall be of fire-resistive or noncombustible materials except in portable one-room classroom buildings an Underwriters Laboratories, Inc., approved fire-retardant paint may be used.

5.705(6) Portable classroom buildings shall maintain a minimum of 20 feet distance from another building if complying with 5.658(3)*"b."* One-room portable classroom buildings located 20 feet or less between adjacent walls shall have not less than a one-hour, fire-rated separation. All portable classroom buildings with raised floors shall be skirted to the ground with material equal to the siding of the building.

5.705(7) Boiler rooms, furnace rooms or fuel rooms which have no stories located above may be constructed of fire-resistive, noncombustible, protected heavy timber or protected ordinary materials.

5.705(8) Boiler rooms, furnace rooms or fuel rooms with building above shall be of two-hour, fire-resistive construction.

661—5.706(100) Fire alarm systems.

5.706(1) All schools having two or more classrooms shall be equipped with a fire alarm system. Alarm stations shall be provided on each floor and so located that the alarm station is not more than 75 feet from any classroom door within the building. Horns or bells that provide a distinctive sound different from other bell systems shall be provided that will give audible warning to all occupants of the building in case of a fire or other emergency. A test device shall be provided for the purpose of conducting fire drills and tests of the alarm system. One-room classroom buildings placed in a complex of other classrooms shall be connected to the central alarm system.

5.706(2) Underwriters Laboratories, Inc. equipment and component parts shall be used in the installation of the fire alarm system. The electrical energy for the fire alarm system shall be on a separate circuit and shall be taken off the utility service to the school building ahead of the entrance disconnect.

5.706(3) Whenever the fire marshal determines it advisable, the fire marshal may require that the fire alarm system be extended or designed to provide automatic fire detection devices in unsupervised areas, boiler rooms, storerooms or shop areas.

661—5.707(100) Electrical wiring.

5.707(1) The electrical wiring of any educational building shall have enough circuits to provide adequate service without the need of overfusing the circuits.

5.707(2) The electrical wiring and component parts shall be properly maintained and serviced so as to eliminate the overheating or shorting that could cause a fire.

5.707(3) In new construction, electrical wiring shall be in metal raceways.

5.707(4) All exit lights shall be connected ahead of the service disconnect.

661—5.708(100) Heating equipment.

5.708(1) Heating equipment shall be installed, where applicable, in rooms constructed in accordance with 5.705(6) and 5.705(7).

5.708(2) Installation for any heating equipment shall be in accordance with the manufacturer's instruction and conditions of safe operation.

5.708(3) Acceptable evidence for complying with 5.708(2) shall be labeling or listed equipment by Underwriters Laboratories, Inc., The American Gas Association Testing Laboratories, or approval of the state fire marshal.

5.708(4) Oil burning equipment shall be installed, maintained and operated in accordance with 5.350(101).

5.708(5) All gas burning equipment shall be installed and maintained in accordance with 5.250(101).

5.708(6) Floor-mounted flame heating equipment shall not be allowed to be installed in any classroom.

661—5.709(100) Gas piping.

5.709(1) Gas piping shall be in accordance with 5.250(101).

5.709(2) All gas service lines into buildings shall be brought out of the ground before entering the building and shall be equipped with a shutoff valve outside the building.

5.709(3) Gas piping cannot run in enclosed space without proper venting.

661—5.710(100) Fire extinguishers.

5.710(1) Each college building shall be equipped with fire extinguishers of a type, size and number approved by the state fire marshal.

5.710(2) National Fire Protection Association Standard No. 10, Installation of Portable Fire Extinguishers, 1988, is applicable. Vaporizing extinguishers containing halogenated hydrocarbon extinguishing agents shall not be approved except in accordance with 661—5.40(17A,80,100).

661—5.711(100) Basement, underground and windowless educational buildings.

5.711(1) Basement classrooms may be used provided there is compliance with paragraph *"a"* or *"b"* and compliance with paragraphs *"c"* and *"d"* below.

a. Direct approved egress door from classrooms to the outside.

b. Classroom doors open into a corridor that leads directly outside.

c. Inside stairs from basement corridors, serving basement classrooms, shall not communicate with other stories above unless of fire-resistive construction.

d. Doors from basement classroom corridors, to other areas of the basement shall be Class B and equipped with door closers except that solid frames and solid core wood doors, not less than 1¾ inches thick, shall be permitted.

5.711(2) Underground or windowless educational buildings shall be provided with complete approved, automatic sprinkler systems.

5.711(3) Underground or windowless educational buildings shall have approved automatic smoke venting facilities in addition to automatic sprinkler protection.

5.711(4) Underground or windowless educational buildings for which no natural lighting is provided shall be provided with an approved-type emergency exit lighting system.

5.711(5) Where required exit from underground structures involves upward travel, such as ascending stairs or ramp, such upward exits shall be cut off from main floor areas. If the area contains any combustible contents or combustible interior finish, it shall be provided with outside vented smoke traps or other means to prevent the exit serving as flues for smoke from any fire in the area served by the exits, thereby making the exit impassable.

5.711(6) Every windowless building shall be provided with outside access panels on each floor level, designed for fire department access from ladders for purposes of ventilation and rescue of trapped occupants.

661—5.712(100) Fire hazard safeguards in new buildings.

5.712(1) Ventilating ducts discharging into attics of combustible construction shall be blocked off, protected with fire dampers or extended in a standard manner through the roof.

5.712(2) Cooking ranges and other cooking appliances in food service area kitchens shall be provided with ventilating hoods, grease filters and shall be vented to the outside in an approved manner.

5.712(3) Discarded furniture, furnishings or other combustible material shall not be stored or allowed to accumulate in attics or concealed spaces. Designated storage space shall be provided for equipment that may be used periodically throughout the school year and necessary to the college operation or curriculum schedule.

5.712(4) Storage facilities for materials and supplies shall be in storage rooms designed for this purpose.

5.712(5) Wastepaper baling and storage shall be in a room without ignition hazards and separated from other parts of the building by fire-resistant construction.

5.712(6) Storage of paint products and flammable liquids shall be in a fire-resistive room or approved metal cabinet.

5.712(7) Decorative materials.

a. No furnishings, decorations, wall coverings, paints, etc., shall be used which are of a highly flammable character or which in the amounts used will endanger egress due to rapid spread of fire or formation of heavy smoke or toxic gases.

b. Highly flammable finishes such as lacquer and shellac are not permitted.

c. Draperies, curtains, loosely attached wall coverings, cloth hangings and similar materials shall be noncombustible or flameproof in corridor exit ways and assembly occupancies. In other areas up to 10 percent of the wall area may have combustible coverings and hangings.

5.712(8) Spray finishing operations shall not be conducted in a school building except in a room designed for the purpose, protected with an approved automatic extinguishing system, and separated vertically and horizontally from such occupancies by construction having not less than two-hour fire resistance. National Fire Protection Association Standard No. 33, Spray Finishing, 1985, shall be applicable for construction and operation of all paint spray booths.

661—5.713(100) Automatic sprinklers.

5.713(1) Automatic sprinkler systems shall be of standard, approved types so installed and maintained as to provide complete coverage for all portions of the premises protected, except insofar as partial protection is specified in other paragraphs of this rule.

5.713(2) Automatic sprinkler systems for college buildings shall be those designed to protect occupancy classifications that are considered light hazard occupancies.

5.713(3) Automatic sprinkler systems shall be provided with water flow alarm devices to give warning of operation of the sprinkler due to fire, and such alarm devices shall be installed so as to give warning throughout the entire building. The sprinkler alarm detection may be connected to the fire alarm system required by state law.

5.713(4) Water supplies.

a. All automatic sprinklers installed in college buildings shall be provided with adequate and reliable water supplies.

b. Public water supplies for sprinkler systems in college buildings shall have a minimum of 4-inch service pipe providing a minimum of 500 gallons of water per minute and shall have at least 15 pounds pressure at the highest sprinkler head.

c. Where public water supply is not available and a pressure supply tank is used, the tank shall be a minimum of 6,000 gallons capacity. The pressure tank shall operate at an air pressure adequate to discharge all of the water in the tank.

5.713(5) All automatic sprinkler systems required by these regulations shall be maintained in a reliable operating condition at all times and such periodic inspections and tests as are necessary shall be made to assure proper maintenance.

661—5.714(100) Open plan buildings.

5.714(1) An "open plan building" is defined as any building where there are no permanent solid partitions between rooms or between rooms and corridors that are used for exit facilities.

5.714(2) Open plan building shall have enclosed stairways and any other vertical openings between floors protected in accordance with 5.703(1).

5.714(3) Open plan buildings shall not exceed 30,000 square feet in undivided area. Solid walls or smoke stop partitions shall be provided at intervals not to exceed 300 feet. Such walls or partitions shall have doors of a type that are at least 1¾-inch solid core wood doors and the partitions shall be the equivalent of one-hour construction.

5.714(4) Any cafeterias, gymnasiums or auditoriums shall be separated from the rest of the building by solid walls and no exits from other parts of the building shall require passing through such assembly areas.

5.714(5) Open plan buildings that do not have a direct exit door from each classroom to the outside shall be protected by a complete automatic fire detection system.

5.714(6) A sprinkler system may be installed in lieu of an automatic fire detection system in an open plan building.

5.714(7) Distance of travel to the nearest exit in an open plan building shall not exceed 100 feet from any point except that in a sprinklered building, the distance may be increased to 150 feet.

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661—5.715 to **5.749** Reserved.

EXISTING COLLEGE BUILDINGS

661—5.750(100) Exits.

5.750(1) Exits shall be provided of kinds, numbers, location and capacity appropriate to the individual building or structure, with due regard to the character of the occupancy, the number of persons exposed, the fire protection available, and the height and type of construction of the building or structure, to afford all occupants convenient facilities for escape.

5.750(2) The population of all college buildings, for the purpose of determining the required exits and the required space for classroom use, shall be determined on the following basis.

a. The square feet of floor space for persons in college buildings shall be one person for each 40 square feet of gross area.

b. In gymnasiums and auditoriums, the capacity for seating shall be on the basis of 6 square feet net per person.

5.750(3) Exits shall be so arranged and maintained as to provide free and unobstructed egress from all parts of every building or structure at all times when the building or structure is occupied. No locks or fasteners to prevent free escape from the inside of any building shall be installed.

5.750(4) Exits shall be clearly visible or routes to reach them shall be conspicuously indicated in such manner that every occupant of every educational building who is physically and mentally capable will readily know the direction of the escape from any point and each path of escape in its entirety shall be so arranged or marked that the way to a place of safety outside is unmistakable.

5.750(5) In all college buildings where artificial illumination is needed, electric exit signs or directional indicators shall be installed and adequate lighting provided for all corridors and passageways.

5.750(6) Where additional outside stairs or fire escapes are required by law, they shall be 44 inches wide and shall extend to the ground. Platforms for outside stairs or fire escapes shall have a minimum dimension of 44 inches. Outside stairs and fire escapes shall be constructed in accordance with 5.101(4).

5.750(7) There shall be a minimum of two means of exit remote from each other from each floor of every college building. The traveled distance from any point to an exit shall not exceed 150 feet measured along the line of travel. In sprinklered buildings, the distance may be increased to 200 feet.

5.750(8) Every room with a capacity of 50 persons or over and having more than 1,000 square feet of floor area shall have at least two doorways as remote from each other as practicable. Such doorways shall provide access to separate exits but may open onto a common corridor leading to separate exits in opposite directions.

5.750(9) In existing buildings where exits do not comply with the requirements of 5.750(100) and in which hazardous conditions exist because of the number, width, construction or location of exits, the fire marshal may order additional exits to ensure adequate safety of the occupants but under no condition may outside fire escapes exceed 50 percent of the required stairs.

661—5.751(100) Corridors.

5.751(1) Corridors used as means of access to exits, and corridors used for discharge from exits, shall provide a clearance of at least 6 feet in width, except in the case of buildings constructed prior to May 6, 1965. Room doors or locker doors swinging into corridors shall not, at any point in the swing, reduce the clear effective width of the corridor to less than 6 feet, nor shall drinking fountains or other equipment, fixed or movable, be so placed as to obstruct the required minimum 6-foot width.

5.751(2) Open clothing storage in existing buildings.

a. In existing buildings, where clothes are hung exposed in exit corridors, they shall be separated by partitions of sheet metal or equivalent material. Partitions shall be placed at 6-foot intervals, be a minimum of 18 inches in depth, extend at least 1 foot above the coat hooks and within 8 inches of the floor.

b. Where open clothing is hung in exit corridors as described above, an automatic fire detection system shall be installed in the corridor. Sprinkler systems may be installed in lieu of the automatic detection system.

5.751(3) Except as permitted in 5.751(2), no combustible materials shall be stored in exit corridors.

5.751(4) The walls of corridors, used for exit facilities, shall be solid partitions of noncombustible finish material.

5.751(5) Where borrowed light panels of clear glass are used in exit corridors, the requirements of 5.765(100) shall apply, except that clear glass windows in doors and transoms may be permitted in existing buildings when nonhazardous activities are carried on in the classroom.

5.751(6) Any single corridor or combination of corridors having an unbroken length of 300 feet or more shall be divided into sections by smoke barriers consisting of smoke stop doors. Doors may be of ordinary solid wood type not less than 1¾ inches thick with clear wired glass panels. Such doors shall be of self-closing type and may be either single or double. They shall close the opening completely with only such clearance as is reasonably necessary for proper operation. Underwriters Laboratories, Inc. listed electromagnetic holders may be used to hold these doors open provided they are hooked into the fire alarm system and a smoke detector is located at a strategic point near the doors.

5.751(7) There shall be no dead end in any corridor or hall more than 20 feet beyond the exit.

661—5.752(100) Doors.

5.752(1) The entrance and exit doors of all college buildings and the doors of all classrooms shall open outward.

5.752(2) Doors shall be provided for main exit facilities leading to a platform connecting with either outside stairs or fire escapes. Doors leading to outside stairways or fire escapes shall have a minimum width of 40 inches, except that on existing buildings where it is not practical to install a door of 40-inch width, a narrower door at least 30 inches in width may be installed.

5.752(3) The main exit and entrance doors and doors leading to fire escapes shall be equipped with a latching device that cannot be locked against the exit.

5.752(4) Doors protecting stairways and doors leading to fire escapes or outside stairs may have wire-glass panes installed providing that the size of any single pane does not exceed 900 square inches.

5.752(5) Doors protecting vertical openings or fire doors installed where protection of hazardous rooms or areas is required shall be equipped with door closers and shall not be blocked open. Underwriters Laboratories, Inc. listed electromagnetic holders may be used to hold these doors open provided they are hooked into the fire alarm system and a smoke detector is located at a strategic point near the doors.

5.752(6) Classroom doors.

a. In existing buildings, doors of not less than 30 inches in width may be used. Doors must be a minimum of 1¾-inch solid core wood.

b. Buildings designed without doors to classrooms shall meet the requirements of 5.765(100).

5.752(7) Boiler, furnace or fuel room doors, communicating to other building areas, shall be 1½-hour rated doors and frames, normally closed and hung to swing into the boiler room.

5.752(8) Doors to storage of combustibles off corridors shall be at least 1¾-inch solid core wood.

5.752(9) Doors from classrooms to corridors may have closeable louvers up to 24 inches above the floor. No other louvers or openable transoms shall be permitted in corridor partitions.

661—5.753(100) Windows. Windows below or within 10 feet of an outside stairway or fire escape shall have panes of wire glass.

661—5.754(100) Stairway enclosures and floor cutoffs.

5.754(1) In buildings of more than one story, stairs shall be enclosed with protected noncombustible construction except those in accordance with 5.754(2). Doors shall be 1¾-inch solid wood construction, or better, with wire glass allowable.

5.754(2) In existing buildings of two stories with no basement where such buildings are fire-resistive construction throughout, or fire-resistive first story and noncombustible or heavy timber second story, the stairs need not be enclosed, provided, *(a)* all exit-way finish is Class A [flame spread rating not exceeding 25], *(b)* no open storage of wardrobe, books or furniture in exit ways or spaces common to them and *(c)* providing these stairs from the second floor lead directly to an outside door or vestibule leading to the outside of the building.

5.754(3) In existing buildings, the stairway enclosures or the protection of vertical openings shall be the equivalent of wood studding with gypsum lath and plaster on both sides. The doors shall be at least 1¾-inch solid core wood doors. Maximum 900 square inch glass panels allowable.

5.754(4) Stairways from boiler, furnace or fuel rooms, communicating to other building areas, shall be enclosed at top and bottom. The entire stair enclosure shall be noncombustible construction. The doors (other than to the boiler room) may be 1¾-inch solid wood with a maximum of 900 square inches of wired glass allowable.

5.754(5) Except as provided elsewhere in this rule, interior stairways used as exits shall be enclosed. The construction of the enclosure shall be in accordance with the provisions of 5.754(1).

5.754(6) Cutoffs between floors for stairways not used as exit facilities shall use the same type of construction as provided in 5.754(1).

5.754(7) Where existing buildings because of layout or construction make it impossible to comply with 5.754(100), the fire marshal shall make an analysis of the building and may then order remedial construction or installation of fire detection or equipment which will correct hazardous conditions.

661—5.755(100) Interior finishes.

5.755(1) Interior finish shall be Class A in exit and Class A or B in access to exits. See Table No. 5-C following 661—5.105(100).

5.755(2) Whenever the fire marshal determines the fire hazard is great enough, Class A materials for room finishes shall be used in science laboratories, shop areas, and such other areas as the fire marshal shall designate, in addition to those areas designated by 5.755(1).

661—5.756(100) Construction. All additions to existing buildings shall comply with 5.705(100).

661—5.757(100) Fire alarm systems.

5.757(1) All schools having two or more classrooms shall be equipped with a fire alarm system. Alarm stations shall be provided on each floor and so located that the alarm station is not more than 75 feet from any classroom door within the building. Horns or bells that provide a distinctive sound different from other bell systems shall be provided that will give audible warning to all occupants of the building in case of a fire or other emergency. A test device shall be provided for the purpose of conducting fire drills and tests of the alarm system. One-room classroom buildings placed in a complex of other classrooms shall be connected to the central alarm system.

5.757(2) Underwriters Laboratories, Inc. equipment and component parts shall be used in the installation of the fire alarm system. The electrical energy for the fire alarm system shall be on a separate circuit and shall be taken off the utility service to the school building ahead of the entrance disconnect.

5.757(3) Whenever the fire marshal determines it advisable, the fire marshal may require that the fire alarm system be extended or designed to provide automatic fire detection devices in unsupervised areas, boiler rooms, storerooms or shop areas.

661—5.758(100) Electrical wiring. Electrical service in existing buildings and all remodeling or additions to the electric service shall comply with 5.707(100).

661—5.759(100) Heating equipment.

5.759(1) Heating equipment shall be installed, where applicable, in rooms constructed in accordance with 5.705(6) and 5.705(7).

5.759(2) Installation for any heating equipment shall be in accordance with the manufacturer's instruction and conditions of safe operation.

5.759(3) Acceptable evidence for complying with 5.709(2) shall be labeling or listed equipment by Underwriters Laboratories, Inc., The American Gas Association Testing Laboratories, or approval of the state fire marshal.

5.759(4) Oil burning equipment shall be installed, maintained and operated in accordance with 5.350(101) of these rules.

5.759(5) All gas burning equipment shall be installed and maintained in accordance with 5.250(101) of these rules.

5.759(6) Floor-mounted flame heating equipment shall not be allowed to be installed in any classroom.

661—5.760(100) Gas piping.

5.760(1) Gas piping shall be in accordance with 5.250(101).

5.760(2) All gas service lines into buildings shall be brought out of the ground before entering the building and shall be equipped with a shutoff valve outside the building.

5.760(3) Gas piping cannot run in enclosed space without proper venting.

661—5.761(100) Fire extinguishers.

5.761(1) Each college building shall be equipped with fire extinguishers of a type, size, and number approved by the state fire marshal.

5.761(2) National Fire Protection Association Standard No. 10, Installation of Portable Fire Extinguishers, 1988, is applicable. Vaporizing extinguishers containing halogenated hydrocarbon extinguishing agents shall not be approved except in accordance with 661—5.40(17A,80,100).

661—5.762(100) Basements. In existing college buildings, basement classrooms may be used provided there is compliance with paragraph "1" or "2" and compliance with paragraphs "3," "4" and "5":

1. Direct approved egress door from classrooms to the outside.
2. Classroom doors open into a corridor that leads directly outside.
3. Inside stairs from basement corridors, serving basement classrooms, shall not communicate with other stories above unless of fire-resistive construction.
4. Doors from basement classroom corridors, to other areas of the basement, shall be Class B and equipped with door closers except that solid frames and solid core wood doors, not less than 1¾ inches thick, shall be permitted.
5. Buildings, unless of fire-resistive construction, using the basement area for classroom purposes, shall have sprinkler or automatic alarm systems in the entire basement area.

661—5.763(100) Fire hazard safeguards in existing buildings.

5.763(1) Ventilating ducts discharging into attics of combustible construction shall be blocked off, protected with fire dampers or extended in a standard manner through the roof.

5.763(2) Cooking ranges and other cooking appliances in food service area kitchens shall be provided with ventilating hoods, grease filters, and shall be vented to the outside in an approved manner.

5.763(3) Discarded furniture, furnishings or other combustible material shall not be stored or allowed to accumulate in attics or concealed spaces. Designated storage space shall be provided for equipment that may be used periodically throughout the school year and necessary to the college operation or curriculum schedule.

5.763(4) Space used for storage under stairways in existing buildings shall not be allowed unless the storage area is lined with material that will provide a one-hour, fire-resistant rating and provided with a tight-fitting door that has a comparable fire-resistant rating. Except when removing or storing stock, the door shall be kept closed and locked.

5.763(5) Wastepaper baling and storage shall be in a room without ignition hazards and separated from other parts of the building by fire-resistant construction.

5.763(6) Storage of paint products and flammable liquids shall be in a fire-resistive room or approved metal cabinet.

5.763(7) Decorative materials.

a. No furnishings, decorations, wall coverings, paints, etc., shall be used which are of a highly flammable character or which in amounts used will endanger egress due to rapid spread of fire or formation of heavy smoke or toxic gases.

b. Highly flammable finishes such as lacquer and shellac are not permitted.

c. Draperies, curtains, loosely attached wall coverings, cloth hangings and similar materials shall be noncombustible or flameproof in corridor exit ways and assembly occupancies. In other areas up to 10 percent of the wall area may have combustible coverings and hangings.

5.763(8) Spray finishing operations shall not be conducted in a school building except in a room designed for the purpose, protected with an approved automatic extinguishing system, and separated vertically and horizontally from such occupancies by construction having not less than two-hour fire resistance. National Fire Protection Association Standard No. 33, Spray Finishing, 1985, shall be applicable for construction and operation of all paint spray booths.

661—5.764(100) Automatic sprinklers.

5.764(1) Subrules 5.764(2) to 5.764(9) shall apply, if upon inspection by the fire marshal a building or area is deemed hazardous for life safety and a sprinkler system installation is ordered.

5.764(2) Where automatic sprinkler protection is provided, other requirements of these rules may be modified to such extent as permitted by other provisions in 5.764(100).

5.764(3) Automatic sprinkler systems shall be of standard, approved types so installed and maintained as to provide complete coverage for all portions of the premises protected, except insofar as partial protection is specified in other subrules of 5.764(100).

5.764(4) Automatic sprinkler systems for college buildings shall be those designed to protect occupancy classifications that are considered light hazard occupancies.

5.764(5) Automatic sprinkler systems shall be provided with water flow alarm devices to give warning of operation of the sprinkler due to fire, and such alarm devices shall be installed so as to give warning throughout the entire building. The sprinkler alarm detection may be connected to the fire alarm system required by state law.

5.764(6) Partial automatic sprinkler systems shall provide complete protection in basement and other hazardous areas. Above the basement area, stairwells and corridors shall be sprinklered. Nonhazardous classrooms are not required to be sprinklered for partial systems.

5.764(7) Water supplies.

a. All automatic sprinklers installed in college buildings shall be provided with adequate and reliable water supplies.

b. Public water supplies for sprinkler systems in college buildings shall have a minimum of 4-inch service pipe providing a minimum of 500 gallons of water per minute and shall have at least 15 pounds pressure at the highest sprinkler head.

c. Where public water supply is not available and a pressure supply tank is used, the tank shall be a minimum of 6,000 gallons capacity. The pressure tank shall operate at an air pressure adequate to discharge all of the water in the tank.

5.764(8) All automatic sprinkler systems required by these regulations shall be maintained in a reliable operating condition at all times and such periodic inspections and tests as are necessary shall be made to ensure proper maintenance.

5.764(9) In existing buildings of ordinary or better construction, stairway enclosures will not be required if protected by a partial or standard sprinkler system. Basement cutoffs of vertical openings will be required. This modification of open stairways is permitted only in buildings that do not exceed a basement and two full stories.

661—5.765(100) Open plan buildings.

5.765(1) In existing college buildings, where the design of the building lends itself to the classification of an open plan building, the requirements for fire safety of 5.764(2) to 5.764(9) shall apply.

5.765(2) This will include regulations for all buildings where there are no permanent solid partitions between rooms or between rooms and corridors that are used for exit facilities.

5.765(3) Open plan buildings shall have enclosed stairways and any other vertical openings between floors protected in accordance with 5.754(1).

5.765(4) Open plan buildings shall not exceed 30,000 square feet in undivided area. Solid walls or smoke stop partitions shall be provided at intervals not to exceed 300 feet. Such walls or partitions shall have doors of a type that are at least 1¾-inch solid core wood doors and the partitions shall be the equivalent of one-hour construction.

5.765(5) Any cafeterias, gymnasiums or auditoriums shall be separated from the rest of the building by solid walls and no exits from other parts of the building shall require passing through such assembly areas.

5.765(6) Open plan buildings that do not have a direct exit door from each classroom to the outside shall be protected by a complete automatic fire detection system.

5.765(7) A sprinkler system may be installed in lieu of an automatic fire detection system in an open plan building.

5.765(8) Distance of travel to the nearest exit in an open plan building shall not exceed 100 feet from any point except that in a sprinklered building, the distance may be increased to 150 feet.

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661—5.766 to **5.799** Reserved.

FIRE SAFETY RULES FOR RESIDENTIAL OCCUPANCIES

661—5.800(100) New residential occupancies.

5.800(1) Application. The requirements within this chapter shall apply to all new residential occupancies, including additions, alterations, or modifications.

5.800(2) "Residential occupancies" for purposes of rules 661—5.800(100) to 661—5.809(100) shall include hotels, motels, apartment houses, dormitories, lodging and rooming houses, convents and monasteries each accommodating more than ten persons. In addition, for purposes of rules 661—5.806(100) to 661—5.809(100), "residential occupancies" shall include all one- and two-family dwellings.

5.800(3) The state fire marshal shall, where local, state or federal codes are being enforced and are equivalent to or more restrictive than the rules promulgated herein, accept these codes as meeting the intent of this chapter.

NOTE: New residential occupancies constructed where the state building code applies shall follow the provisions of the state building code.

5.800(4) All electrical work shall meet the requirements set forth in the National Electrical Code (N.F.P.A. 70) 1988.

5.800(5) Definitions.

"Apartment house" is any building or portion thereof which contains three or more dwelling units.

"Atrium" is an opening through two or more floor levels other than enclosed stairways, elevators, hoistways, escalator, plumbing, electrical, air conditioning or other equipment which is closed at the top and not defined as a mall.

"Convent or monastery" is a place of residence occupied by a religious group of people, especially monks or nuns.

"Dormitories" are buildings or spaces where group sleeping accommodations are provided for guests in a series of closely associated rooms under joint occupancy and single management, such as college dormitories, fraternity houses, sorority houses, with or without meals but without individual cooking facilities.

"Guest" is any person hiring or occupying a room for living or sleeping purposes.

"Guest room" is any room or rooms used or intended to be used by a guest for sleeping purposes. Every hundred square feet of superficial floor area in a dormitory shall be considered to be a guest room.

"Hotel/motel" is any building containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests.

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

5.800(6) Construction, height and allowable floor area.

a. General. Buildings or parts of buildings classed as residential occupancies shall be limited to the types of construction set forth in Table 5-B in rule 5.50(100) "Exits" and shall not exceed, in area or height, the limits specified in Table 8-B.

b. Special provisions. Residential occupancies more than two stories in height or having more than 3,000 square feet of floor area above the first story shall be limited to the types of construction and height in Table 8-B.

EXCEPTION: Interior nonload-bearing partitions within individual dwelling units in apartment houses and guest rooms or suites in hotels when such dwelling units, guest rooms or suites are separated from each other and from corridors by not less than one-hour fire-resistive construction may be constructed of:

1. Noncombustible materials or fire-retardant treated wood in buildings of any type of construction; or
2. Combustible framing with noncombustible materials applied to the framing in buildings of Type III or V construction.

Storage or laundry rooms that are within residential occupancies that are used in common by tenants shall be separated from the rest of the building by not less than one-hour fire-resistive occupancy separation.

5.800(7) *Light and ventilation.* All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than one-tenth of the floor area of such rooms with a minimum of 10 square feet. All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one-twentieth of the floor area of the rooms with a minimum of 1½ square feet.

All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural ventilation by means of openable exterior openings with an area of not less than one-twentieth of the floor area of such rooms with a minimum of 5 square feet.

In lieu of required exterior openings for natural ventilation, an approved mechanical ventilating system may be provided. Such systems shall be capable of providing two air changes per hour in all guest rooms, dormitories, habitable rooms and public corridors. One-fifth of the air supply shall be taken from the outside. In bathrooms, water closet compartments, laundry rooms and similar rooms a mechanical ventilation system connected directly to the outside shall be capable of providing five air changes per hour.

For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet, whichever is greater.

Required exterior openings for natural light and ventilation shall open directly onto a street or public alley, yard or court located on the same lot as the building.

EXCEPTION: Required windows may open into a roofed porch where the porch:

1. Abuts a street, yard or court;
2. Has a ceiling height of not less than 7 feet; and
3. Has the longer side at least 65 percent open and unobstructed.

5.800(8) Mixed occupancies general. When a building is used for more than one occupancy purpose, each part of the building comprising a distinct "Occupancy," as shown in the occupancy classification Table 8-A shall be separated from any other occupancy as specified in Table 8-C.

EXCEPTION: Gift shops, administrative offices and similar rooms not exceeding 10 percent of the floor area of the major use.

5.800(9) Occupant load. For the purpose of establishing exit requirements, the occupant load of any building or portion thereof used for the purpose of rules 5.800(100) to 5.802(100) shall be determined by dividing the net floor area assigned to that use by the square feet per occupant as indicated in Table 5-A and rule 680—5.51(100).

5.800(10) Dormitories. New dormitories shall comply with the requirements for new hotels within this chapter.

661—5.801(100) Exit facilities.

5.801(1) *Types of exits.* Exits of the specified number and width shall be one or more of the following types as listed in state fire marshal's fire safety rules and regulations for new and existing buildings.

1. Doors of the swinging type leading directly to the outside or to a lobby or passageway leading to the outside of the building. (See rule 5.53(100))
2. Horizontal exits. (See rule 5.57(100))
3. Smokeproof towers. (See rule 5.59(100))
4. Interior stairs. (See rule 5.55(100) and 5.58(100))
5. Outside stairs. (See rule 5.55(100))
6. Ramps. (See rule 5.56(100))
7. Escalators. (See rule 5.58(100))
8. Exit passageways. (See rule 5.61(100))
9. Corridors and exterior balconies. (See rule 5.54(100))
10. Exit courts. (See rule 5.60(100))

5.801(2) *Number of exits.* The minimum number of exits shall be as prescribed in rule 5.52(100).

EXCEPTION 1: Except as provided in Table 5-A, only one exit need be provided from the second story within an individual dwelling unit.

EXCEPTION 2: Two or more dwelling units on the second story may have access to only one common exit when the total occupant load using that exit does not exceed 10 or 2,000 square feet of floor area. See Table 5-A.

5.801(3) *Required exit width.* Exit width shall be determined as outlined in subrule 5.52(2).

5.801(4) *Arrangement of exits.* The arrangement of required exits shall be as prescribed in subrule 5.52(3).

5.801(5) *Travel distance.* The maximum travel distance from any point to an exterior exit door, horizontal exit, exit passageway, or an enclosed stairway shall not exceed 150 feet, or 200 feet in a building equipped with an automatic sprinkler system complying with subrule 5.52(6). These distances may be increased 100 feet when the last 150 feet is within a corridor complying with rule 5.54(100).

5.801(6) *Exit illumination.* At any time the building is occupied, exits shall be illuminated with light having an intensity of not less than one foot-candle at floor level and in accordance with the requirements of rule 5.62(100).

5.801(7) *Exit signs.* Exit signs shall be installed at required exit doorways and where otherwise necessary to clearly indicate the direction of egress in accordance with the requirements of rule 5.63(100).

5.801(8) *Shaft enclosures.*

a. General. Openings extending vertically through floors shall be enclosed in a shaft of fire-resistive construction having the time period set forth in Table 5-B for shaft enclosures. Protection for stairways shall be as specified in rules 5.58(100) and 5.59(100).

EXCEPTION 1: An enclosure will not be required for openings which serve only one adjacent floor and are not connected with openings serving other floors and which are not concealed within the building construction.

EXCEPTION 2: Stairs within individual apartments need not be enclosed.

b. Rubbish and linen chutes. In occupancies covered by this code, rubbish and linen chutes shall terminate in rooms separated from the remainder of the building by a one-hour fire-resistive occupancy separation. Openings into the chutes and termination rooms shall not be located in exit corridors or stairways.

5.801(9) *Atriums.*

a. General. Buildings classified as residential occupancies with automatic sprinkler protection throughout may have atriums complying with the provisions of this rule. Such atriums shall have a minimum opening and dimensions as follows:

Height in Stories	Minimum Clear Opening (Ft.)	Minimum Area (Sq. Ft.)
3-4	20	400
5-8	30	900
8 or more	40	1,600

NOTE: The above dimensions are the diameters of inscribed circles whose centers fall on a common axis for the full heights of the atrium.

b. Smoke-control system. A mechanically operated air-handling system shall be installed that will exhaust smoke either entering or developed within the atrium. Exhaust openings shall be located in the ceiling or in a smoke-trap area immediately adjacent to the ceiling of the atrium. The lowest level of the exhaust openings shall be located above the top of the highest portion of door openings into the atrium. Supply openings sized to provide a minimum of 50 percent of the exhaust volume shall be located at the lowest level of the atrium.

When the height of the atrium is 55 feet or less, supply air may be introduced by gravity, provided smoke control is accomplished. When the height of the atrium is more than 55 feet, supply air shall be introduced mechanically from the floor of the atrium and be directed vertically toward the exhaust outlets. In atriums over six stories in height or where tenant spaces above the second story are open to the atrium, supplemental supply air may be introduced at upper levels. The exhaust and supply system for the atrium shall operate automatically upon the actuation of the automatic sprinkler system within the atrium or areas open to the atrium or by the actuation of two or more smoke detectors required by this rule. The exhaust and supply equipment shall also be manually operable by controls designed for fire department use. The smoke-control system may be separate or integrated with other air-handling systems. When the smoke-control mode is actuated, air-handling systems which would interfere with the smoke-control system shall be automatically shut down.

Enclosed tenant spaces shall be provided with an approved smoke-control system.

The atrium smoke-control system shall exhaust not less than the following quantities of air:

1. For atriums having a volume of not more than 600,000 cubic feet, including the volume of any levels not physically separated from the atrium, not less than six air changes per hour nor less than 40,000 cfm. A lesser cfm is acceptable if it can be shown by test that smoke will not migrate beyond the perimeter of the atrium.

2. For atriums having a volume of more than 600,000 cubic feet, including the volume of any levels not physically separated from the atrium, not less than four air changes per hour.

Smoke detectors which will automatically operate the atrium smoke-control system shall be installed at the perimeter and on the ceiling of the atrium and on the ceiling of each floor level that is open to the atrium. In floor levels open to the atrium, detectors shall be within 15 feet of the atrium. Detectors shall be located in accordance with their listing.

c. Enclosure of atriums. Atriums shall be separated from adjacent spaces by not less than one-hour fire-resistive construction.

EXCEPTION: Open exit balconies are permitted within the atrium.

Openings in the atrium enclosure other than fixed glazing shall be protected by tight-fitting fire assembly doors which are maintained automatic closing by actuation of a smoke detector, or self-closing.

Fixed glazed openings in the atrium enclosure shall be equipped with fire windows having a fire-resistive rating of not less than three-fourths hour, and the total area of such openings shall not exceed 25 percent of the area of the common wall between the atrium and the room into which the opening is provided.

EXCEPTION: In residential occupancies, openings may be unprotected when the floor area of each room or dwelling unit does not exceed 1,000 square feet and each room or unit has an approved exit not entering the atrium.

d. Travel distance. When a required exit enters the atrium space, the travel distance from the doorway of the tenant space to an enclosed stairway, horizontal exit, exterior door or exit passageway shall not exceed 100 feet.

e. Standby power. The smoke-control system for the atrium and the smoke-control system for the tenant space are to be provided with approved standby power.

f. Interior finish. The interior finish of walls and ceilings of the atrium and all unseparated tenant spaces shall be Class A with no reduction in class for sprinkler protection.

g. Acceptance of the smoke-control system. Before the certificate of occupancy is issued, the smoke-control systems shall be tested in an approved manner and shall show compliance with the requirements of this rule.

h. Inspection of the smoke-control system. All operating parts of the smoke-control systems shall be tested by an approved inspection agency or by the owner or the owner's representative when so approved. Inspections shall be made every three months and a log of the tests be kept by the testing agency. The log shall be on the premises and available for examination by fire department personnel.

i. Combustible furnishings in atriums. The quantity of combustible furnishings in atriums shall not exceed that specified below:

(1) The potential heat of combustible furnishings and decorative materials within atriums shall not exceed 9,000 Btu per pound when located within an area of the atrium that is more than 20 feet below ceiling-mounted sprinklers.

(2) All decorative materials shall be noncombustible or shall be flame-retardant treated and so maintained.

(3) Devices generating an open flame shall not be used nor installed within atriums.

661—5.802(100) General safety requirements.

5.802(1) *Special hazards.* Chimneys and heating apparatus shall conform to manufacturer's instruction and nationally recognized codes. The storage and handling of gasoline, fuel oil or other flammable liquids shall be in accordance with national fire codes. Doors leading into rooms in which volatile flammable liquids are stored or used shall be protected by a fire assembly having a one-hour fire protection rating. The fire assembly shall be self-closing and shall be posted with a sign on each side of the door in 1-inch block letters stating: FIRE DOOR — KEEP CLOSED.

Every room containing a boiler or central heating plant shall be separated from the rest of the building by not less than a one-hour fire-resistive occupancy separation.

EXCEPTION: A separation shall not be required for rooms with equipment servicing only one dwelling unit.

5.802(2) *Interior finish.*

a. Corridors, lobbies and enclosed stairways. Interior finish in all corridors and lobbies shall be Class A, or Class B will be permitted in a fully sprinklered building, and in enclosed stairways, Class A.

b. General assembly. Interior finish in general assembly areas shall be Class A in exit. See Table No. 5-C following 661—5.105(100).

c. Interior floor finish. Interior floor finish within corridors and exits shall be Class I or Class II interior floor finish. See Table No. 5-D following 661—5.105(100).

5.802(3) *Windows for rescue.* Every sleeping room below the fourth story shall have at least one openable window or exterior door approved for emergency rescue. The units shall be openable from the inside without the use of separate tools.

All rescue windows from sleeping rooms shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be 24 inches. The minimum clear opening width dimension shall be 20 inches. Where windows are provided as a means of rescue, they shall have a finished sill height of not more than 44 inches above the floor.

Bars, grilles, grates or similar devices may be installed on emergency escape or rescue windows or doors, provided:

1. Devices are equipped with approved release mechanisms which are openable from the inside without use of a key or special knowledge or effort; and
2. The building is equipped with smoke detectors installed in accordance with subrule 5.802(4).

5.802(4) *Protection systems.*

a. Smoke detectors. Every dwelling unit in apartment houses, dormitories, and every guest room in a hotel/motel or lodging house used for sleeping purposes shall be provided with approved smoke detectors. In all new construction, required smoke detectors shall receive their primary power from the building wiring when wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. (For specific requirements see Iowa Code section 100.18.)

b. Alarm systems. Every apartment house three stories or more in height or containing more than 15 apartments and every hotel three stories or more in height, or containing 20 or more guest rooms shall have installed therein an approved automatic or manually operated fire alarm system designed to warn the occupants of the building in the event of fire. Fire alarm systems shall be so designed that all occupants of the building may be warned simultaneously.

EXCEPTION: An alarm system need not be installed in buildings not over two stories in height when all individual apartments and guest rooms and contiguous attic and crawl spaces are separated from each other and from common areas by at least one-hour fire-resistive occupancy separations and each individual apartment or guest room has an exit direct to a yard or public way.

c. Automatic sprinkler system. Automatic sprinkler systems shall be provided in all residential occupancies more than four stories in height or more than 65 feet above grade level. (Also see subrule 5.52(6) and Iowa Code section 100.39.)

d. Portable fire extinguishers. Approved-type fire extinguishers shall be provided on each floor, so located that they will be accessible to the occupants, and spaced so that no person will have to travel more than 75 feet from any point to reach the nearest extinguisher. Additional extinguishers may be required in areas that constitute a special hazard. Type and number of portable extinguishers shall be determined by the state fire marshal or local fire authority.

e. Maintenance. Regular and proper maintenance of electric service, heating plants, alarm systems, sprinkler systems, fire doors and exit facilities shall be required.

EXISTING RESIDENTIAL OCCUPANCIES

661—5.803(100) Existing residential occupancies.

5.803(1) *Application.* The requirements of this chapter shall apply to existing hotels/motels, apartment houses, dormitories, lodging and rooming houses.

Existing convents and monasteries (each accommodating more than ten persons).

No building or structure housing existing residential occupancies shall be occupied in violation of rules 5.803(100) to 5.805(100).

5.803(2) *Reasonable safety provisions.* The state fire marshal or local enforcement authority shall determine the adequacy of means of egress and other measures for safety from fire in accordance with these rules. In existing buildings where physical limitations may require disproportionate effort or expense with little increase in life safety, the state fire marshal or local enforcement authority may grant exceptions to these rules, but only when it is clearly evident that reasonable safety is provided.

5.803(3) *Change of occupancy.* No existing building or portion of an existing building may have its occupancy changed to residential use unless the building or portion thereof meets the requirements for new residential occupancies.

5.803(4) *Occupant load.* For the purpose of establishing exit requirements, the occupant load of any building or portion thereof used for the purposes of rules 5.803(100) to 5.805(100) shall be determined by dividing the net floor area assigned to that use by the square feet per occupant as indicated in Table 5-A and rule 680—5.51(100) of the state fire marshal's fire safety rules regarding exits.

661—5.804(100) Exit facilities.

5.804(1) *Types of exits.* Exits of the specified number and width shall be one or more of the following types as listed in the state fire marshal's fire safety rules and regulations for new and existing buildings.

1. Doors of the swinging types leading directly to the outside or to a lobby or passageway leading to the outside of the building. (See rule 5.53(100))
2. Horizontal exits. (See rule 5.57(100))
3. Smokeproof towers. (See rule 5.59(100))
4. Interior stairs (See rules 5.55(100) and 5.58(100))
5. Outside stairs. (See rule 5.55(100))
6. Ramps. (See rule 5.56(100))
7. Escalators. (See rule 5.58(100))
8. Exit passageways. (See rules 5.61(100) and 5.101(100))
9. Corridors and exterior balconies. (See rule 5.54(100))
10. Exit courts. (See rule 5.60(100))

An existing stairway, fire escape or other exit component which meets the requirements of rules 5.100(100) to 5.105(100) may be continued in use provided it is in good repair and acceptable to the authority having jurisdiction.

Any exit modification required by this chapter shall meet the requirements for new construction.

5.804(2) *Number of exits.* The minimum number of exits shall be as prescribed in subrule 5.52(1) or 5.101(1).

EXCEPTION 1: Any living unit which has an exit directly to the street or yard at ground level or by way of an outside stairway, or an enclosed stairway with fire-resistance rating of one hour or more serving that apartment only and not communicating with any floor below the level of exit discharge or other area not a part of the apartment served, may have a single exit serving that unit only.

EXCEPTION 2: Any building less than three stories in height with no floor below the floor of exit discharge or, in case there is such a floor, with the street floor construction of at least one-hour fire resistance, may have a single exit, under the following conditions:

a. The stairway is completely enclosed with a partition having a fire-resistance rating of at least one hour with self-closing fire doors protecting all openings between the stairway enclosure and the building.

b. The stairway does not serve any floor below the floor of exit discharge.

c. All corridors serving as access to exits have at least a one-hour fire-resistance rating.

d. There is not more than 35 feet of travel distance to reach an exit from the entrance door of any living unit.

5.804(3) *Required exit width.* Exit width shall be determined as outlined in subrule 5.52(2).

5.804(4) *Arrangement of exits.* The arrangement of required exits shall be as prescribed in subrule 5.52(3).

5.804(5) *Travel distance.* The maximum travel distance from any point to an exterior exit door, horizontal exit, exit passageway, or an enclosed stairway shall not exceed 150 feet.

EXCEPTION: The travel distance may be increased to 200 feet if protected throughout by an automatic sprinkler system.

5.804(6) *Dead-end corridors.* Dead-end corridors shall not exceed 20 feet in length.

EXCEPTION: When corridors meet requirements of rule 5.105(100).

5.804(7) *Exit illumination.* Exits shall be illuminated at any time the building is occupied with light having an intensity of not less than 1 foot-candle at floor level and in accordance with the requirements of rule 5.62(100).

5.804(8) *Exit signs.* Exit signs shall be installed at required exit doorways and where otherwise necessary to clearly indicate the direction of egress in accordance with the requirements of subrule 5.101(5).

5.804(9) *Protection of vertical openings.* All interior stairways, elevator shafts, light and ventilation shafts and other vertical openings shall be enclosed or protected as provided in rule 5.102(100).

EXCEPTION 1: Unprotected openings connecting not more than three floors may be permitted provided the building is completely sprinklered.

EXCEPTION 2: Stairs within individual apartments need not be enclosed.

661—5.805(100) General provisions.

5.805(1) *Hazardous areas.* An area used for general storage, boiler or furnace rooms, fuel storage, janitor's closets, maintenance shops, including woodworking and painting area, laundries and kitchens shall be separated from other parts of the building by construction having not less than one-hour fire-resistance rating, and all openings shall be protected with at least 1¾-inch solid core wood doors or equivalent equipped with approved self-closing devices, or such rooms or spaces may be protected by an automatic sprinkler system.

EXCEPTION: A separation shall not be required for such rooms with equipment serving only one dwelling unit.

5.805(2) *Interior finish.*

a. Corridors, lobbies, and enclosed stairways. Interior finish in all corridors and lobbies shall be Class A, or Class B will be permitted in a fully sprinklered building, and in enclosed stairways, Class A.

b. General assembly. Interior finish in general assembly areas shall be Class A in exit. See Table No. 5-C following 661—5.105(100).

c. Interior floor finish. Interior floor finish within corridors and exits shall be Class I or Class II interior floor finish. See Table No. 5-D following 661—5.105(100).

5.805(3) *Windows for rescue.* Every sleeping room below the fourth story should have at least one openable window or exterior door approved for emergency rescue. The units shall be openable from the inside without the use of separate tools.

Any new or replacement windows from sleeping rooms shall have a minimum net clear opening of 5.7 square feet. The minimum net clear opening height dimension shall be 24 inches. The minimum clear opening width dimension shall be 20 inches. Where windows are provided as a means of rescue, they shall have a finished sill height of not more than 44 inches above the floor.

5.805(4) *Protection systems.*

a. Smoke detectors. Every dwelling unit within an apartment house, dormitory and every guest room in a hotel used for sleeping purposes shall be provided with approved smoke detectors. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes. (For specific requirements see Iowa Code section 100.18.)

b. Alarm systems. Every apartment house three stories or more in height or containing more than 15 apartments and every hotel three stories or more in height containing 20 or more guest rooms shall have installed therein an approved automatic or manually operated fire alarm system designed to warn the occupants of the building in the event of fire. The fire alarm system shall be so designed that all occupants of the building may be warned simultaneously.

EXCEPTION: An alarm system need not be installed in buildings when all individual apartments and guest rooms and contiguous attic and crawl spaces are separated from each other and from common areas by at least one-hour fire-resistive occupancy separations and each individual apartment or guest room has an exit direct to a yard or public way.

Stations for operating any manually operated fire alarm system shall be placed immediately adjacent to the telephone switchboard in the building if there is a switchboard and at such other locations as may be required by the authority having jurisdiction.

Presignal alarm systems will not be permitted.

c. Automatic sprinkler protection. When automatic sprinkler protection is provided it shall be as required by subrule 5.52(6).

5.805(5) *Portable fire extinguishers.* Approved-type fire extinguishers shall be provided on each floor, so located that they will be accessible to the occupants, and spaced so that no person will have to travel more than 75 feet from any point to reach the nearest extinguisher. Additional extinguishers may be required in areas that constitute a special hazard. Type and number of portable extinguishers shall be determined by the state fire marshal or local fire authority.

5.805(6) *Fire and general equipment.* 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, exit facilities, doors and their appurtenances, electric service, heating and ventilation equipment.

All fire protection or extinguishing systems, coverage, spacing and specifications shall also be maintained in accordance with recognized standards at all times and shall be extended, altered or augmented as necessary to maintain and continue protection whenever any building so equipped is altered, remodeled, or added to. All additions, repairs, alterations or servicing shall be made in accordance with recognized standards.

5.805(7) *Storage.* Excessive storage of combustible or flammable materials such as papers, cartons, magazines, paints, and similar materials so as to constitute an unnecessary hazard in the opinion of the authority having jurisdiction shall not be permitted.

These rules are intended to implement Iowa Code chapter 100.

661—5.806(100) Smoke detectors definition. "Approved" is defined as being acceptable to the state fire marshal. Any equipment, device or procedure which bears the stamp of approval or meets applicable standards prescribed by an organization of national reputation such as the Underwriters Laboratories, Inc., National Bureau of Standards, Factory Mutual Laboratories, American Society for National Fire Protection Association, American Society of Mechanical Engineers or American Standards Association, which undertakes to test and approve or provide standards for equipment, devices or procedures of the nature prescribed in these regulations shall be deemed acceptable to the state fire marshal.

661—5.807(100) General requirements.

5.807(1) Approved single station smoke detectors will be acceptable in all areas covered by these regulations, unless other fire warning equipment or materials are required by other standards.

5.807(2) Any installation of wiring and equipment shall be in accordance with the latest edition of the National Fire Protection Association Standard No. 70, National Electric Code, and other applicable standards.

5.807(3) All devices, combinations of devices, and equipment to be installed in conformity with these regulations shall be approved and used for the purposes for which they are intended.

5.807(4) A combination system, such as a household fire warning system whose components may be used in whole or in part, in common with a nonfire emergency signaling system, such as a burglar alarm system or an intercom system, shall not be permitted or approved, except for one- or two-family dwellings.

5.807(5) All power supplies shall be sufficient to operate the alarm for at least four continuous minutes.

5.807(6) Power source.

a. In new buildings and additions constructed after July 1, 1991, required smoke detectors shall receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke detectors may be solely battery operated when installed in existing buildings, or in buildings without commercial power, or in buildings which undergo alterations, repairs or additions regulated by subrule 5.807(2).

b. New and replacement smoke detectors installed after May 1, 1993, which receive their primary power from the building wiring shall be equipped with a battery backup.

5.807(7) The failure of any nonreliable or short-life component which renders the detector inoperative shall be readily apparent to the occupant of the sleeping unit without the need for a test. Each smoke detector shall detect abnormal quantities of smoke that may occur and shall properly operate in the normal environmental condition.

5.807(8) Equipment shall be installed, located and spaced in accordance with the manufacturer's recommendations.

5.807(9) Installed fire warning equipment shall be mounted so as to be supported independently of its attachment to wires.

5.807(10) All apparatus shall be restored to normal immediately after each alarm or test.

5.807(11) Location within dwelling units.

a. In dwelling units, detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area. When the dwelling unit has more than one story and in dwellings with basements, a detector shall be installed on each story and in the basement. In dwelling units where a story or basement is split into two or more levels, the smoke detector shall be installed on the upper level, except that when the lower level contains a sleeping area, a detector shall be installed on each level. When sleeping rooms are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. In dwelling units where the ceiling height of a room open to the hallway serving the bedrooms exceeds that of the hallway by 24 inches or more, smoke detectors shall be installed in the hallway and in the adjacent room. Detectors shall sound an alarm audible in all sleeping areas of the dwelling unit in which they are located.

b. Location in efficiency dwelling units and hotels. In efficiency dwelling units, hotel suites and in hotel sleeping rooms, detectors shall be located on the ceiling or wall of the main room or hotel sleeping room. When sleeping rooms within an efficiency dwelling unit or hotel suite are on an upper level, the detector shall be placed at the ceiling of the upper level in close proximity to the stairway. When actuated, the detector shall sound an alarm audible within the sleeping area of the dwelling unit, hotel suite or sleeping room in which it is located.

661—5.808(100) Smoke detectors—notice and certification of installation.

5.808(1) *Notice of installation.* Owners of rental residential buildings containing two or more units required by law to install smoke detectors shall notify their local fire department upon installation of required smoke detectors.

5.808(2) *Certification—single-family dwelling units.* A person who files for homestead credit pursuant to Iowa Code chapter 425 shall certify that the single-family dwelling unit for which credit is filed has a smoke detector(s) installed in accordance with 5.807(6) and 5.807(11)*"a,"* or that such smoke detector(s) will be installed within 30 days of the date of filing for credit.

5.808(3) *Reports to fire marshal.* Each county or city assessor charged with the responsibility of accepting homestead exemption credit applications will obtain certification of smoke detection on a form acceptable to the state fire marshal, signed by the person making application for credit and file a quarterly report with the fire marshal listing the name, address and whether applicant attested to a detector(s) being present at the time of application or that a detector(s) would be installed as required within 30 days.

661—5.809(100) Smoke detectors—new and existing construction.

5.809(1) *New construction.* All multiple-unit residential buildings and single-family dwellings which are constructed after July 1, 1991, shall include the installation of smoke detectors meeting the requirements of rule 661—5.806(100) and rule 661—5.807(100).

5.809(2) *Existing construction.* All existing single-family units and multiple-unit residential buildings shall be equipped with smoke detectors as required in 5.807(11)*"a."*

Rules 5.806 to 5.809 are intended to implement Iowa Code section 100.18.

OCCUPANCY CLASSIFICATIONS PER TABLE 8-A

General Occupation Description	Current Occupancy Designation	Complete Occupancy Description
Assembly	A-1	Any assembly building with a stage and occupant load of 1,000 or more in building.
	A-2	Any building or portion of a building having an assembly room with an occupant load of less than 1,000 and a stage.
	A-2.1	Any building or portion of a building having an assembly room with an occupant load of 300 or more without a stage, including such buildings used for educational purposes and not classed as a Group E or Group B, Division 2 Occupancy.
	A-3	Any building or portion of building having an assembly room with an occupant load of 300 or more without a stage, including such buildings used for educational purposes and not classed as a Group E or Group B, Division 2 Occupancy.
	A-4	Stadiums, reviewing stands and amusement park structures not included within other Group A Occupancies.
Business, including offices, factories, mercantile and storage	B-1	Gasoline service stations, storage garages where no repair work is done except exchange of parts and maintenance requiring no open flame, welding or the use of highly flammable liquids.
	B-2	Drinking and dining establishments having an occupant load of less than 50, wholesale and retail stores, office buildings, printing plants, municipal police and fire stations, factories and workshops using material not highly flammable or combustible, storage and sales rooms for combustible goods, paint stores without bulk handling. Buildings or portions of buildings having rooms used for educational purposes, beyond the 12th grade, with less than 50 occupants in any room.
	B-3	Aircraft hangers where no repair work is done except change of parts and maintenance requiring no open flame, welding or use of highly flammable liquids. Open parking garages, heliports.
	B-4	Ice plants, power plants, pumping plants, cold storage, creameries. Factories and workshops using noncombustible and nonexplosive materials. Storage and sales rooms for noncombustible and nonexplosive materials.

Educational	E-1	Any building used for educational purposes through 12th grade by 50 or more persons for more than twelve hours per week or four hours in any one day.
	E-2	Any building used for educational purposes through 12th grade by less than 50 persons for more than twelve hours per week or four hours in one day.
	E-3	Any building used for day-care purposes for more than six children.
Hazardous	H-1	Storage, handling, use or sale of hazardous and highly flammable or explosive materials other than Class I, II, or III-A liquids.
	H-2	Storage and handling of Class I, II and III-A liquids, dry cleaning plants using flammable liquids; paint stores with bulk handling; paint shops and spray painting rooms and shops. The storage or sale of hazardous materials or chemicals or Class I, II and III-A liquids in amounts that do not exceed those set forth in Table No. 9-A is permitted in buildings or portions thereof without classifying such buildings as a Group H Occupancy, provided such chemicals, hazardous materials or liquids are stored and handled in compliance with the provisions of the Fire Code.
	H-3	Woodworking establishments, planing mills, box factories, buffing rooms for tire rebuilding plants and picking rooms; shops, factories or warehouses where loose combustible fibers or dust are manufactured, processed, generated or stored; and pin-refinishing rooms.
	H-4	Repair garages.
	H-5	Aircraft repair hangers.
Institutional	I-1	Nurseries for full-time care of children under the age of six (each accommodating more than five persons). Hospitals, sanitariums, nursing homes with nonambulatory patients and similar buildings (each accommodating more than five persons).
	I-2	Nursing homes for ambulatory patients, homes for children six years of age or over (each accommodating more than five persons).
	I-3	Mental hospitals, mental sanitariums, jails, prisons, reformatories and buildings where personal liberties of inmates are similarly restrained.
		EXCEPTION: Group I Occupancies shall not include buildings used only for private residential purposes for a family group.

Miscellaneous structures	11	M-1	Private garages, carports.
		M-2	Fences over six feet high, tanks and towers.
Residential	12	R-1	Hotels and apartment houses. Convents and monasteries (more than 10 people).
		R-3	Lodging houses (five guests or rooms).

TABLE 8-B: ALLOWABLE FLOOR AREA
(Per single story)
AND MAXIMUM HEIGHT OF BUILDINGS

TYPES OF CONSTRUCTION								
I	II			III		IV	V	
F.R.	F.R.	ONE-HOUR	N	ONE-HOUR	N	H.T.	ONE-HOUR	N
BASIC ALLOWABLE FLOOR AREA FOR BUILDINGS ONE STORY IN HEIGHT (In Square Feet)								
Unlimited	29,900	13,500	9,100	13,500	9,100	13,500	10,500	6,000
MAXIMUM HEIGHT IN FEET								
Unlimited	160	65	55	65	55	65	50	40
MAXIMUM HEIGHT IN STORIES								
Unlimited	12	4	2	4	2	4	3	2

See Notes 1. - 6.
N — No Requirements for Fire Resistance
F.R. — Fire Resistive
H.T. — Heavy Timber

NOTE 1: Separation on two sides. Where public space, streets, or yards more than twenty feet in width extend along and adjoin the sides of the building, floor areas may be increased at a rate of 1¼ percent for each foot by which the minimum width exceeds twenty feet but the increase shall not exceed 50 percent.

NOTE 2: Separation on three sides. Where public space, streets or yards more than twenty feet in width extend along and enjoin three sides of the building, floor areas may be increased at a rate of 2½ percent for each foot by which the minimum width exceeds twenty feet, but the increase shall not exceed 100 percent.

NOTE 3: Separation on all sides. Where public space, streets or yards more than twenty feet in width extend on all sides of a building and enjoin the entire perimeter, floor areas may be increased at a rate of 5 percent for each foot by which the minimum width exceeds twenty feet. Such increases shall not exceed 100 percent.

NOTE 4: Areas of buildings over one story. The total combined floor area for multistory buildings may be twice that permitted by Table 8-B for one-story buildings, and the floor area of any single story shall not exceed that permitted for a one-story building.

NOTE 5: Automatic sprinkler system. The areas specified in Table 8-B may be tripled in one-story buildings and doubled in buildings of more than one story if the building is provided with an approved automatic sprinkler system throughout. The area increases permitted for installing an approved automatic sprinkler system may be compounded with that specified in Notes 1, 2, and 3.

NOTE 6: The area increases permitted in Note 5 shall not apply when automatic sprinkler systems are installed under the following provisions:

a. An increase in allowable number of stories.
b. Substitution for one-hour fire-resistive construction.
c. Atriums.

TABLE 8-C—REQUIRED SEPARATION
IN BUILDINGS OF MIXED OCCUPANCY
(In Hours)

	A-1	A-2	A-2.1	A-3	A-4	B-1	B-2	B-3	B-4	E	H-1	H-2	H-3	H-4,5	I	M[2]	R-1	R-3
I	3	3	3	3	3	4	2	4	4	1	NP[3]	4	4	4	—	1	1	1
R-1	1	1	1	1	1	3[1]	1	1	1	1	4	3	3	3	1	1	—	N
R-3	1	1	1	1	1	1	N	N	N	1	4	3	3	3	1	1	N	—

[1]The three-hour separation may be reduced to one hour where the Group B, Division 1 Occupancy, is limited to the storage of passenger motor vehicles having a capacity of not more than nine persons per vehicle and provided no repair or fueling is done and the area does not exceed 3,000 square feet in a building.

[2]In the one-hour occupancy separation between a Group R, Division 3 and M Occupancy, the separation may be limited to the installation of materials approved for one-hour fire-resistive construction on the garage side and a self-closing, tight fitting solid wood door in lieu of a one-hour fire assembly. Fire dampers shall not be required in ducts piercing this separation for ducts constructed of not less than No. 26 gauge galvanized steel.

[3]Not permitted.

661—5.810 to **5.849** Reserved.

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EXPLOSIVE MATERIALS

661—5.850(101A) Rules generally. The code, "NFPA 495 Manufacture, Transportation, Storage, and Use of Explosive Materials," 1992 edition, as published by the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269, with the exception of chapter 2 and references to other specific standards contained in chapter 2, is hereby adopted by reference as the rules governing the manufacture, transportation, storage, and use of explosive materials in the state of Iowa.

This rule is intended to implement Iowa Code section 101A.5.

661—5.851(101A) Inventory. Inventory shall be of such that it shows amount of explosive material on hand, quantities dispensed and to whom, and quantity on hand at the end of each calendar working day. Anytime a shortage appears it shall be reported immediately to the chief of police or sheriff having jurisdiction, who in turn shall cause a federal form 4712 (Department of Treasury, Internal Revenue Service) to be implemented, a copy of which shall be sent to the Iowa Department of Public Safety, attention of state fire marshal.

This rule is intended to implement Iowa Code section 101A.5.

661—5.852 to **5.864** Reserved.

661—5.865(101A,252J) Grounds for suspension, revocation, or denial of commercial explosives licenses. The department may refuse to issue a commercial license for the manufacture, importation, distribution, sale, and commercial use of explosives sought pursuant to Iowa Code section 101A.2 or may suspend or revoke such a license for any of the following reasons:

1. Finding that the applicant or licensee is not of good moral character and sound judgment.
2. Finding that the applicant or licensee lacks sufficient knowledge of the use, handling, and storage of explosive materials to protect the public safety.
3. Finding that the applicant or licensee falsified information in the current or any previous license application.
4. Proof that the licensee or applicant has violated any provision of Iowa Code chapter 101A or these rules.
5. Receipt by the department of a certificate of noncompliance from the child support recovery unit of the Iowa department of human services, pursuant to the procedures set forth in Iowa Code Supplement chapter 252J.

An applicant or licensee whose application is denied or a licensee whose license is suspended or revoked other than because of receipt of a certificate of noncompliance from the child support recovery unit may appeal that action pursuant to 661-chapter 10. Applicants or licensees whose licenses are denied, suspended, or revoked because of receipt by the department of a certificate of noncompliance issued by the child support recovery unit shall be subject to the provisions of rule 661—5.866(252J) and procedures specified in 661-chapter 10 for contesting department actions shall not apply in these cases.

This rule is intended to implement Iowa Code section 101A.2 and Iowa Code Supplement chapter 252J.

661—5.866(252J) Child support collection procedures. The following procedures shall apply to actions taken by the department on a certificate of noncompliance received from the Iowa department of human services pursuant to Iowa Code Supplement chapter 252J:

5.866(1) The notice required by Iowa Code Supplement section 252J.8 shall be served upon the applicant or licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the licensee, identification card holder, or applicant may accept service personally or through authorized counsel.

5.866(2) The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code Supplement section 252J.8, shall be 60 days following service upon the licensee or applicant.

5.866(3) Licensees and applicants for licenses shall keep the department informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code Supplement chapter 252J and shall provide the department with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code Supplement section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

5.866(4) All departmental fees for applications, license renewal or reinstatement must be paid by the licensee or applicant before a license will be issued, renewed, or reinstated after the department has denied the issuance or renewal of a license, or has suspended or revoked a license pursuant to Iowa Code Supplement chapter 252J.

5.866(5) In the event a licensee or applicant files a timely district court action following service of a department notice pursuant to Iowa Code Supplement sections 252J.8 and 252J.9, the department shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed. For the purpose of determining the effective date of revocation or suspension or denial of the issuance or renewal of a license, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

This rule is intended to implement Iowa Code Supplement chapter 252J.

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Effective date of 5.300, 5.301(6), 5.301(7), 5.302, 5.304(2)"c"(2), 5.304(3), 5.304(4), 5.305, 5.350 and 5.351 delayed by the Administrative Rules Review Committee 70 days.
Subrule 5.305(3) which was delayed 70 days from November 8, 1979, is renumbered and amended as 5.305(2) to be effective January 17, 1980.
Effective date of 5.400 and 5.450 to 5.452 delayed by the Administrative Rules Review Committee 70 days. These amendments published in IAC 10/3/79, ARC 0596.

CHAPTER 411
PERSONS WITH DISABILITIES PARKING PERMITS

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CHAPTERS 422 and 423
Reserved

CHAPTER 424
TRANSPORTER PLATES

CHAPTER 425
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CHAPTER 430
MOTOR VEHICLE LEASING LICENSES

VEHICLES

CHAPTER 400
VEHICLE REGISTRATION AND CERTIFICATE OF TITLE

[Prior to 6/3/87, Transportation Department[820]—(07,D)Ch 11]

761—400.1(321) Definitions. The definitions in Iowa Code section 321.1 are hereby made part of this chapter. In addition, the following words and phrases, when used in Iowa Code chapter 321 or this chapter, shall have the meanings respectively ascribed to them, except when the context otherwise requires.

400.1(1) *"Certificate of title"* means a document issued by the appropriate official which contains a statement of the owner's title, the name and address of the owner, a description of the vehicle, a statement of all security interests and additional information required under the laws or rules of the jurisdiction in which the document was issued, and which is recognized as a matter of law as a document evidencing ownership of the vehicle described. The terms "title certificate," "title only," and "title" shall be synonymous with the term "Certificate of title."

400.1(2) *"Dealer's or manufacturer's stock or inventory"* means a vehicle owned by a dealer which is being held for sale or trade and for which the dealer has a duly assigned ownership document as required by Iowa Code section 321.45.

400.1(3) *"Farm trailer"* means a trailer used exclusively by a farmer in the conduct of the farmer's agricultural operation. The term shall not include a "semitrailer."

400.1(4) *"Half-year fee"* means the first semiannual installment of an annual registration fee. The term "half-year registration" shall be synonymous with the term "half-year fee."

400.1(5) *"Hearse"* means a motor vehicle used exclusively to transport a deceased person.

400.1(6) *"Housecar"* means a motor truck, other than a van-type vehicle, that has been converted to provide a temporary or recreational dwelling which is not permanently equipped with enough systems to meet the definition of a motor home.

400.1(7) *"Kit vehicle"* means a motor vehicle which has been assembled by a person other than a manufacturer of vehicles.

a. To be termed a "kit vehicle," the assembled motor vehicle shall consist of a minimum of the following new parts:

(1) Truck or truck tractor: Vehicle cab and frame.

(2) Motorcycle or motorized bicycle: Vehicle frame. However, a new motorcycle or motorized bicycle which is delivered by a manufacturer, distributor or importer to a purchaser as an unassembled vehicle shall not be considered a kit vehicle.

(3) All other motor vehicles: Vehicle body.

b. The term "glider kit" shall be synonymous with the term "kit vehicle."

400.1(8) *"Lien"* means an interest in a vehicle which secures payment or performance of an obligation. The term "security interest" shall be synonymous with the term "lien."

400.1(9) *"Manufacturer's certificate of origin"* means a certification signed by the manufacturer, distributor or importer that the vehicle described has been transferred to the person or dealer named and that the transfer is the first transfer of the vehicle in ordinary trade and commerce.

a. The terms "manufacturer's statement," "importer's statement or certificate," "MSO" and "MCO" shall be synonymous with the term "manufacturer's certificate of origin."

b. In addition to the requirements of Iowa Code subsection 321.45(1), the certificate shall contain a description of the vehicle which includes the make, model, style and vehicle identification number. The description of a motorized bicycle shall also specify the engine displacement and maximum speed.

c. For 1992 and subsequent model year vehicles, the form used for manufacturers' certificates of origin shall be the universal form adopted in 1990 by the American Association of Motor Vehicle Administrators (AAMVA). This requirement does not apply to trailer-type vehicles. A copy of this universal form is on file in the office of vehicle services at the address in subrule 400.6(1).

400.1(10) *"Model year,"* except where otherwise specified, means the year of original manufacture or the year certified by the manufacturer. For purposes of titling and registration, the model year shall advance one year each January 1.

400.1(11) *"Motor vehicle control number"* is described in subrule 400.3(2).

400.1(12) *"Registered"* means that the appropriate registration fee has been paid for a vehicle and a registration card evidencing payment has been issued to the owner.

400.1(13) *"Registration card"* means a document issued to the owner of a vehicle by the appropriate agency whose duty it is to register vehicles, which contains the name and address of the owner, a description of the vehicle and the certificate of title number issued for the vehicle if subject to issuance of a certificate of title, and which is issued to the owner when the vehicle has been registered. The term "registration certificate," "registration receipt" and "registration renewal receipt" shall be synonymous with the term "registration card."

400.1(14) *"Security interest"* means an interest in a vehicle which secures payment or performance of an obligation. The term "lien" shall be synonymous with the term "security interest."

400.1(15) *"Special fuel"* means any type of fuel, other than gasoline or gasohol, that propels a motor vehicle, including fuel which is manufactured from gasoline by-products and any type of fuel that does not meet the definition of motor fuel in Iowa Code subsection 452A.2(1).

This rule is intended to implement Iowa Code sections 321.1, 321.8, 321.20, 321.23, 321.24, 321.40, 321.41, 321.45, 321.50, 321.123, 321.134 and 321.157.

761—400.2(321) Vehicle registration and certificate of title—general provisions.

400.2(1) *Vehicles subject to registration.* A vehicle subject to registration under the laws of Iowa shall be required to be registered at the time the vehicle is first operated or moved upon a highway in this state.

400.2(2) *Vehicles exempt from titling or registration.* A certificate of title shall not be issued for a vehicle which is exempt from the titling or registration provisions of Iowa Code chapter 321, unless issuance of a certificate of title is specifically authorized in chapter 321.

400.2(3) *Issuance of a certificate of title upon payment of registration fees.* Except as otherwise provided in Iowa Code chapter 321 or this chapter of rules, the current year registration fee and any delinquent registration fees and penalties, if any, shall be paid prior to issuance of a certificate of title.

400.2(4) *Trailers with an empty weight of 2000 pounds or less.* Certificates of title shall not be issued for trailers with an empty weight of 2000 pounds or less. However, these trailers shall be subject to the registration fees provided in Iowa Code section 321.123.

400.2(5) *Vehicles owned by the government.* A certificate of title shall be issued for a vehicle owned by the government when the vehicle is first registered. However, vehicles owned by the government shall be exempted from registration and titling fees. Also, a certificate of title shall not be issued for a government-owned vehicle if a certificate of title would not be issued if the vehicle were owned by someone other than the government.

400.2(6) *Vehicles leased by the government.* Vehicles leased by the government for a period of 60 days or more are exempted from payment of registration fees. A copy of the lease agreement, certificate of lease, or other evidence that the vehicle is being leased by the government shall be required in order to obtain this exemption. However, the lessor is not exempted from the requirements for obtaining a certificate of title as set out in Iowa Code chapter 321 and these rules, including payment of the appropriate certificate of title fee.

761—400.53(321) Stickers.

400.53(1) *Placement of validation sticker.* The validation sticker shall be affixed to the lower left corner of the rear registration plate. EXCEPTION: For motorcycle and small trailer plates, the validation sticker shall be affixed to the upper left corner of the plate.

400.53(2) *Special fuel user identification sticker.* If the vehicle uses a special fuel as defined in subrule 400.1(15) of this chapter, a special fuel user identification sticker shall be issued. This sticker shall be displayed on the cover of the fuel inlet of the motor vehicle or on the outside panel of the motor vehicle within 3 inches of the fuel inlet so as to be in view when fuel is delivered into the motor vehicle.

400.53(3) *Persons with disabilities parking sticker.* A persons with disabilities special registration plate parking sticker shall be affixed to the lower right corner of the rear registration plate.

This rule is intended to implement Iowa Code sections 321.34, 321.40, 321.41, and 321.166.

761—400.54(321) Registration card issued for trailer-type vehicles. The registration card issued for trailer-type vehicles shall be carried in the vehicle which is described on the card or the registration card may be carried in the driver's compartment of the towing vehicle. If the registration card is carried in the vehicle which is described on such card, the registration card shall be enclosed in a registration card holder and the holder shall be attached to the vehicle so that the registration card may be viewed by any peace officer upon request.

This rule is intended to implement Iowa Code section 321.32.

761—400.55(321) Damage disclosure statement.

400.55(1) Pursuant to Iowa Code section 321.69, a damage disclosure statement shall be submitted with an application for certificate of title for a motor vehicle. The damage disclosure statement in the assignment/reassignment area on the back of the title shall be used. However, if this is not available or if a separate disclosure document is required, the damage disclosure statement shall be made on a separate form approved by the department for this purpose.

400.55(2) If the transferor failed to provide a damage disclosure statement or if the transferee lost the statement, and the transferee has attempted in good faith to contact the transferor to obtain a statement, the transferee may file a sworn statement of these facts. The transferee shall also complete section 1, question 2, of a separate disclosure document, Form No. 411108, and sign on the buyer's line. The sworn statement and disclosure document completed by the transferee shall be accepted by the county treasurer or the department in lieu of the damage disclosure statement required from the transferor.

400.55(3) Any damage disclosed by a damage disclosure statement shall be rounded to the nearest whole dollar when recorded on the face of the title.

400.55(4) The county treasurer shall retain the damage disclosure statement for the life of the title.

400.55(5) A model year formula for damage disclosure statements shall be the current year minus ten. The resulting number represents the first model year for which a motor vehicle is exempt from the damage disclosure statement requirements incident to a transfer.

This rule is intended to implement Iowa Code section 321.69.

761—400.56(321) Hearings. A person whose certificate of title, vehicle registration, license, or permit has been revoked, suspended, canceled, or denied may contest the decision under Iowa Code chapter 17A and rules 761—Chapter 13, Iowa Administrative Code. The request shall be submitted in writing to the director of the office of vehicle services at the address in subrule 400.6(1).

This rule is intended to implement Iowa Code sections 17A.10 to 17A.19, 321.101 and 321.102.

761—400.57(321) Non-resident-owned vehicles. When the primary users of a non-resident-owned vehicle are not located in Iowa, the vehicle may be registered by the county treasurer of any county in this state. The primary users of the non-resident-owned vehicle shall provide the county treasurer with the address of the users, if different from the address of the nonresident owner. This rule shall not apply to vehicles registered under Iowa Code chapter 326.

This rule is intended to implement Iowa Code section 321.20.

761—400.58(321) Motorized bicycles. The following rules shall apply to motorized bicycles.

400.58(1) *Maximum speed.* If the department has reasonable cause to believe that a particular vehicle or model is capable of speeds exceeding 25 miles per hour, the department may conduct independent tests to determine the maximum speed of the vehicle or model. If the department determines that the maximum speed of the particular vehicle or model exceeds 25 miles per hour, the vehicle or model shall not be registered as a motorized bicycle.

400.58(2) *Identification of a vehicle as a motorized bicycle.* Registration plates issued for motorcycles shall also be issued for motorized bicycles.

This rule is intended to implement Iowa Code section 321.1.

761—400.59(321) Registration documents lost or damaged in transit through the United States postal service. To obtain without cost the reissuance of registration documents that were sent by the county treasurer to the owner through the United States postal service and which were lost or damaged in transit, the owner of the vehicle shall file application for reissuance within 60 days of the date the documents were issued by the county treasurer.

This rule is intended to implement Iowa Code section 321.42.

761—400.60(321) Credit of registration fees.

400.60(1) *Credit for unexpired registration fee.* The applicant may claim credit, as specified in Iowa Code subsection 321.46(3), toward the registration fee for one newly acquired replacement vehicle.

a. On the reverse side of the application form, the applicant shall indicate if any credit is due; if no credit is due, the applicant shall write "none."

b. The credit may be claimed only when the owner of the newly acquired vehicle is applying for a certificate of title and registration (or just registration if the vehicle is not subject to titling provisions) for the newly acquired vehicle.

c. The registration receipt for the formerly owned or junked vehicle shall be submitted with the application form. If applicable, the registration receipt shall be completed on the reverse side to show the transfer of ownership. If a titled vehicle has been junked by the vehicle's owner, the junking certificate issued under Iowa Code section 321.52 shall also be submitted.

(1) The date on the reverse side of the registration receipt or on the junking certificate shall determine the date the vehicle was transferred or junked.

(2) If the sold or junked vehicle was a trailer not subject to titling, the owner may obtain a free duplicate registration receipt from the county treasurer for the purpose of claiming credit.

d. Excess credit shall not be applied toward the registration fee for a second vehicle.

e. Credit shall be allowed for one or two vehicles which have been sold, traded or junked toward one replacement vehicle. Credit shall be based on the remaining unexpired months of the registration year(s) of the vehicle(s) sold, traded or junked.

b. A written statement from the peace officer listing the plate number of the registration plate removed from the vehicle and the vehicle owner's name. The statement must either reference Iowa Code subparagraph 321.20B(4)"*a*"(3) or 321.20B(4)"*a*"(4), as applicable, or reference Iowa Code section 321.20B and indicate whether or not the vehicle was impounded. The statement must be signed by the peace officer or an employee of the law enforcement agency.

400.70(2) The peace officer may either destroy removed plates or deliver the removed plates to the county treasurer for destruction.

This rule is intended to implement Iowa Code section 321.20B and 1998 Iowa Acts, chapter 1121, section 2.

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◊Two ARCs

761—401.9(321) Firefighter plates. Application for firefighter plates shall be made on Form 411065. The chief of the paid or volunteer fire department shall sign the back of the application form, certifying that the applicant is a current or former member of the fire department. If the chief cannot certify that the applicant is a former member, a person who has knowledge of the applicant's membership shall sign the application certifying that fact.

761—401.10(321) Emergency medical services plates. Application for emergency medical services (EMS) plates shall be submitted to the Iowa department of public health on Form 411065. The department of public health shall determine whether the applicant is a current member of a paid or volunteer emergency medical services agency and, if so, certify this fact on the back of the application form. A vehicle owner whose membership in a paid or volunteer emergency medical services agency is terminated shall within 30 days after termination surrender the EMS plates to the county treasurer in exchange for regular registration plates.

761—401.11(321) Natural resources plates—letter-number designated.

401.11(1) *Application.* Application for letter-number designated natural resources plates shall be made to the county treasurer. The issuance fee is a $35 special natural resources fee.

401.11(2) *Renewal.* The yearly validation fee is a $10 special natural resources fee. If renewal is delinquent for more than one month, a new application and $35 issuance fee are required.

401.11(3) *Reassignment.* A vehicle owner may request reassignment of letter-number designated natural resources plates in accordance with subrule 401.6(4).

401.11(4) *Gift certificate.* A gift certificate for the issuance fee may be purchased from the county treasurer. A gift certificate is void 90 days after issuance.

401.11(5) *Distribution of fees.* Special natural resources fees are paid to the Iowa resources enhancement and protection (REAP) fund.

761—401.12(321) Natural resources plates—personalized.

401.12(1) *Application.* Application for personalized natural resources plates shall be made on Form 411065. The issuance fee consists of a $35 special natural resources fee and a $45 personalized plate fee.

401.12(2) *Characters.* Personalized natural resources plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs *"a"* to *"d."*

401.12(3) *Renewal.* The yearly validation fee for personalized natural resources plates consists of a $10 special natural resources fee and $5 personalized plate fee. If renewal is delinquent for more than one month:

a. A new application and $80 issuance fee are required.

b. The department may issue the plates' combination of characters to another applicant.

401.12(4) *Reassignment.* A vehicle owner may request reassignment of personalized natural resources plates in accordance with subrule 401.6(4).

401.12(5) *Gift certificate.* A gift certificate for the issuance fee may be purchased by completing Form 411065 and submitting it to the department. A gift certificate is void 90 days after issuance.

761—401.13 and **401.14** Reserved.

761—401.15(321) Processed emblem application and approval process. Following is the application and approval process for special plate requests under Iowa Code subsection 321.34(13) as amended by 1997 Iowa Acts, chapter 104, sections 9 and 10.

401.15(1) Application Form 411146 shall be used to submit a request to the department to recommend a new special registration plate with a processed emblem.

401.15(2) The application shall contain:

a. The applicant's name, address, and telephone number.

b. The name of the processed emblem.

c. A clear and concise explanation of the purpose of the special plate and all eligibility requirements.

d. The total number of the special plates the applicant anticipates being purchased.

401.15(3) The application shall be accompanied by:

a. A color copy of the processed emblem.

(1) The processed emblem shall be limited to 3" × 3½" on the registration plate, but the emblem submitted may be of a larger size.

(2) The processed emblem shall not have any sexual connotation, nor shall it be vulgar, prejudiced, hostile, insulting, or racially or ethnically degrading.

b. A certification by the person who has legal rights to the emblem allowing use of the emblem. This certification shall also include a statement holding the department harmless for using the processed emblem on a registration plate.

401.15(4) The office of vehicle services may consult with other organizations, law enforcement authorities, and the general public concerning the processed emblem.

401.15(5) Within 60 days after receiving the application, the office of vehicle services shall advise the applicant of the department's approval or denial of the application. The department reserves the right to approve or disapprove any processed emblem.

401.15(6) If the department approves the application, the applicant shall be advised that 500 paid special plate applications must be submitted to the department before the new plate will be manufactured and issued. If 500 paid applications are not submitted within one year after the date the department approved the plate, the department shall cancel its approval.

401.15(7) If the special plate is approved and at a later date it is determined that a false application was submitted, the department shall revoke the special plates. No refunds shall be paid.

761—401.16(321) Special plates with processed emblems—general.

401.16(1) *Fees.* Following are the fees for special plates with processed emblems:

	Letter-Number		Personalized	
Type	Issuance	Validation	Issuance	Validation
Persons With Disabilities	$0	$0	$25	$5
Ex-POW	$0	$0	N/A	N/A
National Guard	$25	$5	$50	$5
Pearl Harbor	$25	$5	$50	$5
Purple Heart	$25	$5	$50	$5
U.S. Armed Forces Retired	$25	$5	$50	$5
Silver or Bronze Star	$25	$5	$50	$5
Iowa Heritage	$35	$10	$60	$15
Education	$35	$10	$60	$15
Love Our Kids	$35	$10	$60	$15
Motorcycle Rider Education	$35	$10	$60	$15

401.16(2) *Application.* Unless specified otherwise, application for special plates with processed emblems shall be made on Form 411065.

401.16(3) *Characters.* Personalized special plates with processed emblems shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs *"a"* to *"d."*

401.16(4) *Renewal.* If renewal of either letter-number designated or personalized special plates with processed emblems is delinquent for more than one month:

a. A new application and issuance fee are required.

b. The department may issue the combination of characters on personalized processed emblem plates to another applicant.

401.16(5) Reserved.

401.16(6) *Gift certificate.* Unless otherwise specified, a gift certificate for special plates with processed emblems may be purchased by completing Form 411065 and submitting it to the department. Proof of eligibility for the special plates may be required. A gift certificate is void 90 days after issuance.

761—401.17 to **401.19** Reserved.

761—401.20(321) Persons with disabilities plates.

401.20(1) *Application.* Application for special plates with a persons with disabilities processed emblem shall be made on Form 411055 or Form 411065.

a. The application shall include a signed statement written on the physician's, chiropractor's, physician assistant's or advanced registered nurse practitioner's letterhead. The statement shall certify that the owner or the owner's child is a person with a disability, as defined in Iowa Code section 321L.1, and that the disability is permanent.

b. If the person with a disability is a child, the parent or guardian shall complete the proof of residency certification on the application or complete and submit a separate proof of residency Form 411120, certifying that the child resides with the owner.

401.20(2) *Definition.*

"Child" includes, but is not limited to, stepchild, foster child, or legally adopted child who is younger than 18 years of age, or a dependent person 18 years of age or older who is unable to maintain the person's self.

401.20(3) *Renewal.* The owner shall, at renewal time, provide a self-certification stating that the owner or the owner's child is still a person with a disability and, if the person with a disability is the owner's child, that the child still resides with the owner.

761—401.21(321) Ex-prisoner of war plates. Application for special plates with an ex-prisoner of war processed emblem shall be made on Form 411065. The application shall include a copy of an official government document verifying that the applicant was a prisoner of war. If the document is not available, a person who has knowledge that the applicant was a prisoner of war shall sign a statement to that effect on the back of the application form.

The surviving spouse of a person who was issued ex-prisoner of war plates may continue to use or apply for the plates. If the surviving spouse remarries, the surviving spouse shall surrender the plates to the county treasurer in exchange for regular registration plates within 30 days after the date on the marriage certificate.

761—401.22(321) National guard plates. Application for special plates with a national guard processed emblem shall be made on Form 411065. The unit commander of the applicant shall sign the back of the application form confirming that the applicant is a member of the Iowa national guard.

761—401.23(321) Pearl Harbor plates. Application for special plates with a Pearl Harbor processed emblem shall be made on Form 411065. The applicant shall submit a copy of an official government document verifying that the applicant was stationed at Pearl Harbor, Hawaii, as a member of the armed forces on December 7, 1941.

761—401.24(321) Purple Heart, Silver Star and Bronze Star plates. Application for special plates with a Purple Heart, Silver Star, or Bronze Star processed emblem shall be made on Form 411065. To verify receipt of the medal, the applicant shall include a copy of one of the following:

1. The official military order confirming the medal.
2. The report of discharge or federal Form DD214.
3. Other documentation approved by the Iowa office of the adjutant general.

761—401.25(321) U.S. armed forces retired plates. Application for special plates with a United States armed forces retired processed emblem shall be made on Form 411065. To verify retirement from the United States armed forces after service of 20 years or longer, or to verify service for a minimum of 10 years and receipt of an honorable discharge from service due to a medical disqualification, the applicant shall include a copy of one of the following:

1. The official military order confirming retirement from the armed forces.
2. The report of discharge or federal Form DD214.
3. Other documentation approved by the Iowa office of the adjutant general.

761—401.26 Reserved.

761—401.27(321) Iowa heritage plates.

401.27(1) *Application.* Application for letter-number designated plates with an Iowa heritage processed emblem shall be made to the county treasurer. Application for personalized plates with an Iowa heritage processed emblem shall be made to the department on Form 411065.

401.27(2) *Reassignment.* A vehicle owner may request reassignment of letter-number designated or personalized Iowa heritage plates in accordance with subrule 401.6(4).

401.27(3) *Gift certificate.* A gift certificate for the issuance fee for letter-number designated Iowa heritage plates may be purchased from the county treasurer. A gift certificate for the issuance fee for personalized Iowa heritage plates may be purchased by completing Form 411065 and submitting it to the department. A gift certificate is void 90 days after issuance.

761—401.28(321) Education plates.

401.28(1) *Application.* Application for letter-number designated special plates with an education processed emblem shall be made to the county treasurer. Application for personalized plates with an education processed emblem shall be made to the department on Form 411065.

401.28(2) *Reassignment.* A vehicle owner may request reassignment of letter-number designated or personalized education plates in accordance with subrule 401.6(4).

401.28(3) *Gift certificate.* A gift certificate for the issuance fee for letter-number designated education plates may be purchased from the county treasurer. A gift certificate for the issuance fee for personalized education plates may be purchased by completing Form 411065 and submitting it to the department. A gift certificate is void 90 days after issuance.

761—401.29(321) Love our kids plates.

401.29(1) *Application.* Application for letter-number designated plates with a love our kids processed emblem shall be made to the county treasurer. Application for personalized plates with a love our kids processed emblem shall be made to the department on Form 411065.

401.29(2) *Reassignment.* A vehicle owner may request reassignment of letter-number designated or personalized love our kids plates in accordance with subrule 401.6(4).

401.29(3) *Gift certificate.* A gift certificate for the issuance fee for letter-number designated love our kids plates may be purchased from the county treasurer. A gift certificate for the issuance fee for personalized love our kids plates may be purchased by completing Form 411065 and submitting it to the department. A gift certificate is void 90 days after issuance.

761—401.30(321) Motorcycle rider education plates.

401.30(1) *Application.* Application for letter-number designated plates with a motorcycle rider education processed emblem shall be made to the county treasurer. Application for personalized plates with a motorcycle rider education processed emblem shall be made to the department on Form 411065.

401.30(2) *Reassignment.* A vehicle owner may request reassignment of letter-number designated or personalized motorcycle rider education plates in accordance with subrule 401.6(4).

401.30(3) *Gift certificate.* A gift certificate for the issuance fee for letter-number designated motorcycle rider education plates may be purchased from the county treasurer. A gift certificate for the issuance fee for personalized motorcycle rider education plates may be purchased by completing Form 411065 and submitting it to the department. A gift certificate is void 90 days after issuance.

761—401.31 to **401.34** Reserved.

761—401.35(321) Additional information.

401.35(1) *Surrender of special registration plates assigned to a vehicle.*

a. When ownership of a vehicle is transferred or assigned to another person, the owner must surrender the special registration plates to the county treasurer or assign the plates to another vehicle owned or leased by the person to whom issued.

b. When the lease for a vehicle is terminated, the lessee must surrender the special registration plates to the county treasurer or assign the plates to another vehicle owned or leased by the person to whom issued. Regular registration plates shall be reissued at no charge. Fees for issuing Congressional Medal of Honor plates shall be prorated for the remainder of the registration year.

401.35(2) *Revocation of special registration plates.* Special registration plates shall be revoked if they have been issued in conflict with the statutes or rules governing their issuance. Revoked plates shall be surrendered to the department within 30 days of the date of revocation.

401.35(3) *Refund of fees.* No refund of fees for special registration plates shall be allowed unless the special plates were issued in conflict with the statutes or rules governing their issuance.

These rules are intended to implement Iowa Code sections 321.34, 321.166 and 321L.1 and 1997 Iowa Acts, chapter 2; chapter 70, section 3; chapter 104, sections 8 to 10; and chapter 123, section 1.

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