

Rule-Writing Style Guide

Prepared by
IOWA ADMINISTRATIVE CODE OFFICE

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Preface

This guide is intended to aid rule writers in drafting administrative rules and preparing rule-making documents for publication in the Iowa Administrative Bulletin.

For requirements relating to the rule-making process, please refer to the Iowa Administrative Procedure Act (Iowa Code chapter 17A), as well as the Legislative Guide to Rule Making prepared by the Legal Services Division of the Legislative Services Agency.

Current and archived versions of the Iowa Administrative Bulletin (IAB) and Iowa Administrative Code (IAC) may be accessed at <https://www.legis.iowa.gov/law/administrativeRules>, the Iowa General Assembly's administrative rules Web page.

Inquiries, comments and suggestions concerning this guide are welcomed and should be directed to:

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Administrative Rules and Rule-Making Documents

Planning a Rule

Identify: Authority
Objectives
Stakeholders

Before starting to draft an administrative rule, a writer should identify the authority for rule making; determine the purpose, intended results, or objectives of the rule; identify those who will be affected by the rule; define the words to be used; and outline the organization of the rule.

Fully understanding the intended results of an administrative rule is critical to its effective composition. The writer should be able to identify clearly whether the intent of the rule is to restrict activities or to provide a benefit and should be able to state the conditions under which the restrictions apply or the benefits are bestowed. It is often helpful to seek input from affected parties prior to drafting an administrative rule.

Although there is no single approach to organizing a rule or chapter of rules, the most common method is to begin with the general purpose and scope of the rule and then to define the terms used. Good organization often makes a difficult rule comprehensible, and preparing a complete outline will facilitate good organization.

Preparing the Rule-Making Document

The easiest and best method for preparing a rule-making document for publication in the IAB* and for drafting or amending an administrative rule is to use the downloadable template available on the General Assembly's Web site at <https://www.legis.iowa.gov/law/administrativeRules/ruleWriterInfo>. To begin:

1. Read the template instructions.
2. Open the template, and click on the "add-ins" tab to access the template tools.
3. Under the "Preambles" drop-down menu, select the preamble template for the type of rule-making document you are preparing:

- Notice of Intended Action;
- Amended Notice of Intended Action;
- Notice of Termination;
- Adopted and Filed;
- Adopted and Filed Emergency;
- Adopted and Filed Emergency After Notice; or
- Adopted and Filed Without Notice

*For submission deadlines and publication dates, see the Schedule for Rule Making in the IAB and on the Web at <https://www.legis.iowa.gov/docs/Rules/RuleMakingSchedule2016.pdf>.

Drafting the preamble. Use the guide below, keyed to each type of document, to draft the preamble by filling in the required elements in the template. Save the document periodically to your computer's desktop or drive.

For a **Notice of Intended Action** preamble:

- a. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the authority for rule making, and indicate the number and title of each chapter of rules to be amended, adopted or rescinded.
- b. Summarize the subject matter of and the reasons for the rule making.
- c. Establish a deadline which is at least 20 days after the publication date of the Notice of Intended Action for interested parties to submit comments. Give the name, address, and e-mail address of a contact person for the agency. Fax numbers and telephone numbers may also be included.
- d. If a public hearing is to be held, provide its date, time and location. Hold the hearing at least 20 days after the Notice of Intended Action is published. [§17A.4(1)“b”]
- e. If the rule making necessitates annual expenditures in excess of \$100,000, provide a fiscal impact statement. [§§25B.6 and 17A.4(4)]
- f. Include a jobs impact statement. [Executive Order 71 (3/7/11)]
- g. Cite the statute(s) that the rules or amendments are intended to implement.

For an **Amended Notice of Intended Action** preamble:

- a. Cite the specific statutory authority for the rule making.
- b. Reference, by ARC number and IAB publication date, the Notice of Intended Action to be amended.
- c. Explain how and why the original Notice of Intended Action is being amended.
- d. If a public hearing is to be held, provide its date, time and location. Hold the hearing at least 20 days after the Amended Notice of Intended Action is published. [§17A.4(1)“b”]
- e. Include a jobs impact statement. [Executive Order 71 (3/7/11)]

For a **Notice of Termination** preamble:

- a. Cite the specific statutory authority for the rule making.
- b. Identify, by ARC number and IAB publication date, the Notice of Intended Action to be terminated.
- c. Explain why the Notice of Intended Action is being terminated.
- d. Include a jobs impact statement. [Executive Order 71 (3/7/11)]

For an **Adopted and Filed** preamble:

- a. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the authority for rule making, and indicate the number and title of each chapter of rules to be amended, adopted or rescinded.
- b. Summarize the subject matter of and the reasons for the rule making.
- c. Identify, by ARC number and IAB publication date, the Notice of Intended Action (and, if applicable, the Amended Notice of Intended Action). If a hearing was held, state the date and location of the hearing and whether any persons attended the hearing.
- d. Summarize comments received from the public, or state that no public comments were received.
- e. Explain any changes from the Notice (see Guide to Rule Making, Div. VII, Part B), or if no changes were made, state that the rules or amendments are identical to those published under Notice.
- f. Indicate, if applicable, whether the rules or amendments are subject to waiver. [§17A.4(2)]
- g. Include a jobs impact statement. [Executive Order 71 (3/7/11)]
- h. Cite the statute(s) that the rules or amendments are intended to implement.
- i. Specify an effective date. The effective date may be no sooner than 35 days after the date of publication of the Adopted and Filed document in the IAB. [§17A.5]

For an **Adopted and Filed Emergency** preamble:

- a. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the authority for rule making, and indicate the number and title of each chapter of rules to be amended, adopted or rescinded.
- b. Summarize the subject matter of and the reasons for the rule making.
- c. Explain why, pursuant to Iowa Code section 17A.4(3), the normal rule-making process regarding notice and public participation was bypassed.
- d. Unless emergency adoption is specifically allowed by statute, state that, pursuant to Iowa Code section 17A.4(3), the rule making has been reviewed and approved by the Administrative Rules Review Committee.
- e. Explain why, pursuant to Iowa Code section 17A.5(2) "b"(1)(a), (b) or (c) as applicable, the normal effective date was waived.
- f. If the rule making necessitates annual expenditures in excess of \$100,000, provide a fiscal impact statement. [§§25B.6 and 17A.4(4)]
- g. Indicate, if applicable, whether the rules or amendments are subject to waiver. [§17A.4(2)]
- h. Include a jobs impact statement. [Executive Order 71 (3/7/11)]
- i. Cite the statute(s) that the rules or amendments are intended to implement.
- j. Specify an effective date. The effective date may be the date on which the document is filed with the Administrative Rules Coordinator or any date thereafter. [§17A.5(2) "b"]

For an **Adopted and Filed Emergency After Notice** preamble:

- a. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the authority for rule making, and indicate the number and title of each chapter of rules to be amended, adopted or rescinded.
- b. Summarize the subject matter of and the reasons for the rule making.
- c. Identify, by ARC number and IAB publication date, the Notice of Intended Action (and, if applicable, the Amended Notice of Intended Action). If a hearing was held, state the date and location of the hearing and whether any persons attended the hearing.
- d. Summarize comments received from the public, or state that no public comments were received.
- e. Explain any changes from the Notice (see Guide to Rule Making, Div. VII, Part B), or if no changes were made, state that the rules or amendments are identical to those published under Notice.
- f. Explain why, pursuant to Iowa Code section 17A.5(2)“b”(1)(a), (b) or (c) as applicable, the normal effective date was waived.
- g. Indicate, if applicable, whether the rules or amendments are subject to waiver. [§17A.4(2)]
- h. Include a jobs impact statement. [Executive Order 71 (3/7/11)]
- i. Cite the statute(s) that the rules or amendments are intended to implement.
- j. Specify an effective date. The effective date may be the date on which the document is filed with the Administrative Rules Coordinator or any date thereafter. [§17A.5(2)“b”]

For an **Adopted and Filed Without Notice** preamble:

- a. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the authority for rule making, and indicate the number and title of each chapter of rules to be amended, adopted or rescinded.
- b. Summarize the subject matter of and the reasons for the rule making.
- c. Explain why, pursuant to Iowa Code section 17A.4(3), the normal rule-making process regarding notice and public participation was bypassed.
- d. Unless emergency adoption is specifically allowed by statute, state that, pursuant to Iowa Code section 17A.4(3), the rule making has been reviewed and approved by the Administrative Rules Review Committee.
- e. If the rule making necessitates annual expenditures in excess of \$100,000, provide a fiscal impact statement. [§§25B.6 and 17A.4(4)]
- f. Indicate, if applicable, whether the rules or amendments are subject to waiver. [§17A.4(2)]
- g. Include a jobs impact statement. [Executive Order 71 (3/7/11)]
- h. Cite the statute(s) that the rules or amendments are intended to implement.
- i. Specify an effective date. The effective date may be no sooner than 35 days after the date of publication of the Adopted and Filed Without Notice document in the IAB. [§17A.5]

4. The next step is to draft each chapter, rule or amendment to be included in the document. Follow the directions below, as applicable, for drafting, amending, rescinding or renumbering a chapter, rule or rule subpart. Arrange the amendments in numerical order. For guidance on composing the content of a rule or amendment, see the Style Guidelines and Tips Worth Noting sections of this guide.

Drafting a new chapter or rule. Choose the “Adopt” option under the “add-ins” tab of the template to create the appropriate Item Statement (click [here](#) for Item Statement options) and the new chapter, rule or rule subpart. Adhere to the organizational scheme and formatting shown below.

EXAMPLES:

Item 1. Adopt the following **new** 481—Chapter 1: (NOTE: The use of “**new**” obviates the need for underscoring the text.)

CHAPTER 1
TITLE OF CHAPTER

481—1.1(237) Catchwords (i.e., headnotes) (required to indicate subject matter of rule). A rule always begins at the margin. The text of the rule should follow the catchwords. Only the first word of the catchwords is capitalized. The rule number and the catchwords of a rule are always in bold type.

The agency identification number followed by a dash, e.g., 481—, precedes each rule number; 1.1 indicates the first rule in Chapter 1; the number(s) in parentheses, e.g., (237), indicates the Iowa Code chapter(s) implemented, and the number(s) may vary from rule to rule. A rule may also implement an Iowa Acts chapter or a Senate or House File, e.g., (79GA,ch100) or (79GA,SF74), an Executive Order, or a public law or other federal law or regulation.

1.1(1) Indented ½ inch. (Catchwords optional. If used, catchwords for subrules and paragraphs are italicized.) (NOTE: Make sure that Word’s Auto-formatting feature is turned off.)

1.1(2) The second subrule. A rule cannot have only one subrule, paragraph or subparagraph.

a. Indented ½ inch. (Catchwords optional.)

b. The second paragraph under subrule 1.1(2).

(1) Indented ½ inch. (Catchwords optional.)

(2) The second subparagraph under paragraph “*b.*”

1. Indented ½ inch. A list of Arabic numerals followed by periods may be used after a subparagraph or a rule.

2. A “1” cannot be used without a “2.”

- If necessary, bullets may be used to subcategorize information within a numbered list.
- Second bulleted entry.

This rule is intended to implement Iowa Code section 237.10.

481—1.2(237) Second rule in Chapter 1.

Item 2. Adopt the following **new** rule 481—2.2(10A):

481—2.2(10A) Definitions. For rules of the department of inspections and appeals, the following definitions apply:

“*Department*” means the department of inspections and appeals.

“*Director*” means the director of the department.

Amending an existing rule. To amend a rule, rule subpart or chapter, choose the “Amend” option under the “add-ins” tab of the template to create the appropriate Item Statement. Next, select the “Insert current rule language” option to retrieve the existing text of the rule or chapter. If amending a rule subpart, such as a subrule, the text of the subpart may be excerpted from the rule. Follow the instructions below for amending the selected text in the template.

Strike through the words to be deleted; then underscore the words to be inserted. **Important:** All existing text in an amendment must be accounted for and amended accurately; the only way to revise or relocate the existing text is by striking it or underscoring it.

Use the underscore and ~~striketrough~~ formatting tools to amend the text (do **not** use Track Changes).

Strike through whole words and numbers as opposed to individual letters and digits.

If a lowercase word needs to be uppercase, strike through the whole lowercase word and insert and underscore the whole uppercase word.

Use the correct boilerplate for each Item Statement (click [here](#) for Item Statement options).

If the amendment renumbers a rule or rule subpart, check to see if there are cross references that will need to be amended as a result of the renumbering.

Amend each rule in numerical order.

Always use the most recent version of the rule (i.e., the rule as it appears in the current IAC.) If you begin a rule-making document but must leave the task for more than a few days, be sure to check when you return that the text of the rule you initially selected and saved is still current (i.e., the text has not been amended in another rule-making document in the interim).

EXAMPLES:

Item 1. Amend subrule 1.1(3) as follows:

1.1(3) ~~Overall organization.~~ The department is organized by Iowa Code sections 10A.101 to 10A.601 into ~~four~~ three divisions which are further divided into bureaus and sections.

Item 2. Amend subrule 2.3(2) as follows:

2.3(2) ~~Inspections of food~~ Food establishments, including grocery stores, restaurants, hotels, and charitable, ~~correctional, and penal~~ institutions, must pass inspection by the department before they can be licensed.

Item 3. Amend rule 481—2.5(147), introductory paragraph, as follows:

481—2.5(147) Undue influence. It is unethical for a practitioner to ~~deceive~~ mislead anyone.

Item 4. Amend **481—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 147 ~~as amended by 2013 Iowa Acts, chapter 1204.~~

Item 5. Amend subrule 83.61(1) as follows:

83.61(1) Eligibility criteria. All of the following criteria must be met. The person must:

a. Have a diagnosis of intellectual disability as defined in rule 441—83.60(249A). The diagnosis shall be initially established and recertified as follows:

(1) to (3) No change. (NOTE: At the agency’s discretion, unamended subparts may be marked as “No change.”)

b. Be eligible for Medicaid.

c. Be certified as being in need of long-term care.

~~*d.* Be 16 years of age or older.~~

e. *d.* Be a recipient of the case management services or be identified to receive Medicaid case management services immediately following program enrollment.

f. *e.* Have service needs that can be met by this waiver program.

Rescinding a rule. To rescind, or rescind and reserve, a chapter, rule or rule subpart or to rescind a chapter, rule or rule subpart and adopt a new one in its place (i.e., to “rescind and adopt **new**”), choose the “Rescind” option under the “add-ins” tab and select the appropriate Item statement and fill in the required elements.

EXAMPLES:

Item 1. Rescind and reserve rule **481—2.6(147)**.

Item 2. Rescind subrule 3.1(5) and adopt the following **new** subrule in lieu thereof:

3.1(5) New subrule. Since the Item Statement above uses “**new**” to indicate that this material is all new language, underscoring the language of the subrule is unnecessary.

Renumbering and relettering. To renumber or reletter an existing rule or rule subpart, choose the “Renumber” option under the “add-ins” tab and select the appropriate Item Statement and fill in the required elements.

EXAMPLES:

Item 7. Renumber subrules **2.7(7)** and **2.7(8)** as **3.2(7)** and **3.2(8)**.

Item 10. Reletter paragraphs **22.9(2)“b” to “g”** as **22.9(2)“a” to “f.”**

5. After the preamble and the body of the rule-making document are complete:

Check to make sure that all paragraphs, including those in the preamble, are indented properly and are double-spaced. Use 12-point type throughout.

Read the document to find and correct any factual, grammatical or typographical errors. Check the striking and underscoring to make sure that they are accurately applied (i.e., no new language has been added without underscoring, and no existing language has been deleted rather than stricken).

Make sure that any public comment date, public hearing date, adoption date, or effective date stated in the preamble is accurate and corresponds to the applicable date listed in the Schedule for Rule Making.

Save the document in an editable format, i.e., as an .rtf, .doc or .docx (.pdf documents are not permitted).

6. Submit the rule-making document electronically to the Administrative Rules Coordinator (ARC) through the ART site by uploading the document and accurately completing the online form. NOTE: The ARC asks that Notices of Intended Action be submitted a few days in advance of the IAB submission deadline (see the Schedule for Rule Making) to allow time for review.

After the rule-making document has been accepted by the ARC, it is assigned an ARC number and is transmitted to the Administrative Code Office for publication. An editor in the Administrative Code Office will contact you to ask about any possible revisions or corrections to be made to the document before it is published.

Examples of Rule-Making Documents*

ARC _____

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455A.5(6) “a,” 481A.38 and 481A.39, the Natural Resource Commission hereby gives Notice of Intended Action to amend Chapter 110, “Trapping Limitations,” Iowa Administrative Code.

The rules in Chapter 110 describe limitations on the setting of traps, including trap style and placement. This amendment adds a subrule pertaining to mechanical snares.

Any interested person may make written suggestions or comments on this proposed amendment on or before April 22, 2014. Such written materials should be directed to the Wildlife Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; or sent by e-mail to bureau.chief.dnr@iowa.gov. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, a public hearing will be held in the auditorium of the Wallace State Office Building, Des Moines, Iowa, on April 22, 2014, at 10 a.m., at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Natural Resources and advise of specific needs.

This amendment is not subject to waiver.

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

This amendment is intended to implement Iowa Code sections 481A.38 and 481A.92.

The following amendment is proposed.

Adopt the following **new** subrule 110.2(4):

110.2(4) Mechanical snares. It shall be illegal to set any mechanically powered snare designed to capture an animal by the neck or body unless such snare is placed completely under water.

*The examples in this guide are not exact reproductions of published rule-making documents or rules and are intended for purposes of illustration only.

ENVIRONMENTAL PROTECTION COMMISSION[567]
Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.474(3)“d,” the Environmental Protection Commission proposes to amend Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

Notice of Intended Action to rescind paragraph 135.5(1)“e” and adopt a new paragraph 135.5(1)“e” in lieu thereof was published in the Iowa Administrative Bulletin on January 9, 2013, as **ARC 0001C**. The amendment was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 0002C** on the same date. This Amended Notice of Intended Action proposes to rescind paragraph 135.5(1)“e” that was Adopted and Filed Emergency and published under Notice of Intended Action and to adopt a new paragraph 135.5(1)“e” in lieu thereof that changes certain leak detection and notification requirements applicable to unstaffed facilities operating underground storage tank (UST) systems with pressurized piping. “Unstaffed facilities” are those facilities that do not have an operator present on site at all times when the UST system is operating and available to dispense fuel to a customer.

Paragraph 135.5(1)“e” proposed herein allows current in-line leak detection methods to be used when the UST facility is unattended, with additional requirements to ensure that detected releases are addressed. The paragraph allows for immediate shutdown of the submersible pump when a release is detected. In the alternative, the paragraph allows for the restriction of the flow of product or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility’s operator or designee. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the Class B operator or designee when a potential release is indicated.

This rule making is the result of working with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective. The Notice of Intended Action published on January 9, 2013, as **ARC 0001C** had extended the deadline to January 1, 2014, for unstaffed facility owners to comply with the existing 135.5(1)“e” requirements and allowed time for the Department and stakeholders to work together to address concerns raised following emergency adoption of the existing paragraph.

The Department conducted four stakeholder meetings to discuss and receive suggestions for meeting the intent of the paragraph. Based on extensive public comment, it was determined that an extensive revision to the paragraph would be required. Because of the extensive revision required, the rule making commenced in **ARC 0001C** is amended with this Amended Notice of Intended Action.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before August 13, 2013. Such written materials should be sent to the Director, Department of Natural Resources, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319; fax (515)281-8895; or e-mail director@dnr.iowa.gov.

Oral or written comments will also be accepted at a public hearing to be held on August 13, 2013, at 1 p.m. in Conference Room 5W at the Wallace State Office Building, Des Moines, Iowa, at which time persons may present their views.

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

After analysis and review of this rule making, a positive impact on jobs could exist as the new requirements will allow for compliance that is less financially burdensome to the regulated community.

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

The following amendment is proposed.

Rescind paragraph **135.5(1)“e”** and adopt the following **new** paragraph in lieu thereof:

e. Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.
2. Restrict the flow of product when a leak is detected.
3. Trigger an audible or visual alarm when a leak is detected.

(2) At facilities implementing 135.5(1)“*e*”(1)“2” or “3,” the facility’s operator shall be notified or shall conduct a visit through one of the following methods:

1. Notification of the Class B operator by immediate electronic communication.
2. Signage directing the customer to contact the Class B operator or a designated contact person. The sign must be immediately visible to the customer and state that slow flow or an audible or visual alarm is an indication of a possible release. The sign must provide a 24-hour telephone number of the Class B operator or designee and direct the customer to stop dispensing product.
3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.

(3) All UST facilities subject to 135.5(1)“*e*” must comply with its provisions by July 1, 2014.

ARC _____

PHARMACY BOARD[657]

Amended Notice of Intended Action

Pursuant to the authority of Iowa Code section 147.76, the Pharmacy Board hereby gives notice that a public hearing will be held on Tuesday, December 17, 2013, at 1 p.m. in the conference room at 400 S.W. Eighth Street, Suite E, Des Moines, Iowa, in order to receive oral or written comments on proposed amendments to Chapter 6, "General Pharmacy Licenses," regarding drug product selection and "do not substitute" restrictions, published in the Iowa Administrative Bulletin on October 2, 2013, as **ARC 0000C**.

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

ARC _____

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Termination

Pursuant to the authority of Iowa Code sections 159.5(11), 189.2(2), 206A.2, 206A.4, 206A.5, 206A.6, and 206A.7, the Department of Agriculture and Land Stewardship terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on April 16, 2014, as **ARC 1234C**, amending Chapter 45, "Pesticides," Iowa Administrative Code.

The Notice proposed to amend Chapter 45 by adding new rules specifying the requirements for issuance of "chemigation" permits, operation of irrigation distribution systems, and certification of chemigation applicators.

The Department is terminating the rule making commenced in **ARC 1234C** and will renounce the proposed rules to incorporate further changes and clarifications to requirements under this chapter.

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

ARC _____

SOIL CONSERVATION DIVISION[27]

Notice of Termination

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on February 19, 2014, as **ARC 1111C**, proposing to adopt a new Chapter 14, "Levee Reconstruction and Repair Program," Iowa Administrative Code.

New Chapter 14 was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on February 19, 2014, as **ARC 1112C**. The Notice was published to solicit comments on the new chapter and to provide opportunity for a public hearing. Since no comments were received, no one appeared at the hearing, and no

changes are required to the emergency-adopted rules, there is no further need to proceed with rule making for **ARC 1111C**.

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

ARC _____

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 124.301, 147.76, and 155A.17, the Pharmacy Board hereby amends Chapter 17, "Wholesale Drug Licenses," Iowa Administrative Code.

These amendments exempt reverse distributors from certain requirements not applicable to the distributors' specific type of wholesale drug operation.

Notice of Intended Action was published in the January 7, 2015, Iowa Administrative Bulletin as **ARC 2345C**. No comments were received. These amendments are identical to those published under Notice of Intended Action.

These amendments were adopted during the February 13, 2015, meeting of the Pharmacy Board.

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

These amendments will become effective on April 8, 2015.

These amendments are intended to implement Iowa Code section 155A.17.

The following amendments are adopted.

Item 1. Adopt the following **new** subrule 17.8(3):

17.8(3) The storage requirements of this rule do not apply to reverse distributors.

Item 2. Adopt the following **new** subrule 17.10(4):

17.10(4) The requirements of this rule do not apply to reverse distributors.

Item 3. Amend subrule 17.12(5) as follows:

17.12(5) The procedures required by subrules 17.12(1) and 17.12(2) do not apply to reverse ~~suppliers~~ distributors. All ~~other~~ procedures addressed in this rule are required of reverse ~~suppliers~~ distributors.

PUBLIC HEALTH DEPARTMENT[641]**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 144.3 and 144.46, the Department of Public Health amends Chapter 95, "Vital Records: General Administration," Iowa Administrative Code.

The rules in Chapter 95 describe the general administration of vital records, including definitions, fees, the handling of records, access to records, issuance of certified copies, and confidentiality.

Previously Adopted and Filed amendments to Chapter 95 were published in the October 2, 2013, Iowa Administrative Bulletin as **ARC 2111C**, with an effective date of January 1, 2014. Upon review of those amendments, the Administrative Rules Review Committee voted a 70-day delay of subrule 95.6(2) at the Committee's October 2013 meeting. The amendment adopted herein addresses the Committee's concerns that precipitated the vote to delay. This amendment reduces the overpayment amount to be retained by the Department to \$5 or less.

Notice of Intended Action for this amendment was published in the January 22, 2014, Iowa Administrative Bulletin as **ARC 2345C**. No comments were received. One clarification has been made to the amendment since publication of the Notice of Intended Action. The Noticed amendment read "less than \$5." A change has been made to match that language to the language in the preamble, which read "\$5 or less."

The State Board of Health adopted this amendment on March 12, 2014.

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

This amendment is intended to implement Iowa Code sections 144.46 and 144.46A.

This amendment will become effective on May 7, 2014.

The following amendment is adopted.

Rescind subrule 95.6(2) and adopt the following **new** subrule in lieu thereof:

95.6(2) Overpayments. Any overpayment of \$5 or less received by the state registrar for the copying of or search for vital records or for the preparation or amending of a certificate shall not be refunded and shall be retained by the department.

REVENUE DEPARTMENT[701]**Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.17, the Department of Revenue hereby amends Chapter 71, "Assessment Practices and Equalization," Iowa Administrative Code.

The amendment to Chapter 71 updates the definition of dual classification properties to reflect changes which were enacted by 2015 Iowa Acts, House File 616, section 3. The Act changed the definition to include properties that have a primary use for human habitation containing three or more dwelling units but also have a commercial or industrial use. The subject matter of subrule 71.1(5) establishes which properties shall be assigned a dual classification for property tax purposes.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2999C** on July 22, 2015.

The Department received public comments from local governments regarding the exclusion in the Noticed amendment of parcels with a primary use of commercial or industrial that also have a secondary use for human habitation consisting of fewer than three separate dwelling units. The Department received a comment from the public regarding the wording of subrule 71.1(5) in regard to the permissible dual classifications. The commenter indicated that the use of the forward slash ("/") seemed to indicate that the classification stated first was the primary use of the property and the classification stated second was the secondary use of the property. The commenter requested that two more permissible dual classifications be added: "multiresidential/commercial" and "multiresidential/industrial."

In the proposed amendment reflecting the legislative changes enacted during the 2015 legislative session, the Department inadvertently struck language in the introductory paragraph of subrule 71.1(5) that allowed dual classification for parcels with a primary use of commercial or industrial that also have a portion or portions of the parcel used or intended for human habitation consisting of fewer than three separate dwelling units. The rule language had provided for dual classification for parcels that had these traits. Therefore, the Department has amended the language of paragraph 71.1(5)"b" since publication of the Notice of Intended Action to provide for dual classification of these parcels once again. The Department has also edited the wording and punctuation of paragraph 71.1(5)"b" to make it clearer that the permissible dual classifications do not indicate a preference for the first classification listed.

Any person who believes that the application of the discretionary provisions of Chapter 71 would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department of Revenue adopted this amendment on August 26, 2015.

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

This amendment is intended to implement 2015 Iowa Acts, House File 616, section 3.

This amendment will become effective October 21, 2015.

The following amendment is adopted.

Amend subrule 71.1(5) as follows:

71.1(5) *Multiresidential real estate.* ~~Multiresidential real estate shall include all lands and buildings~~ parcels or portions of a parcel which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the

dwelling units. For purposes of this rule, “used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. ~~Multiresidential real estate shall include that portion of a building that is used for human habitation and a proportionate share of the land upon which the building is situated, regardless of the number of dwelling units located in the building, if the use for human habitation is not the primary use of the building and such building is not otherwise classified as residential property.~~ Multiresidential real estate shall include mobile home parks, manufactured home communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

a. No change.

b. *Dual classification.* Assessors shall use dual classification on ~~properties~~ parcels where the primary use of the ~~property~~ parcel is commercial or industrial and a portion or portions of ~~the property meet the requirements of the multiresidential classification~~ parcel are used or intended for human habitation, regardless of the number of dwelling units. ~~Properties~~ For the assessment year beginning January 1, 2015, a parcel where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel.

For assessment years beginning January 1, 2016, and after, assessors shall use dual classification on properties where the primary use of the parcel meets the requirements of the multiresidential classification and a portion or portions of the parcel meet the requirements of the commercial classification under subrule 71.1(6) or the industrial classification under subrule 71.1(7). If the primary use of a parcel is for human habitation and the parcel contains fewer than three separate dwelling units, it shall be classified as residential real estate under subrule 71.1(4).

~~There are~~ The only two permissible combinations of dual classifications: commercial/multiresidential and industrial/multiresidential are commercial and multiresidential or industrial and multiresidential. The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

c. and d. No change.

PHARMACY BOARD[657]**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 124.201, the Pharmacy Board hereby amends Chapter 10, "Controlled Substances," Iowa Administrative Code.

This amendment temporarily classifies as Schedule I controlled substances three synthetic cannabinoids in conformance with recent control of these same substances by the U.S. Department of Justice, Drug Enforcement Administration. The substances, UR-144, XLR11, and AKB48, have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and lack accepted safety for use under medical supervision.

The Board finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are unnecessary and impracticable due to the immediate need for this amendment in order to avoid an imminent hazard to the public safety. Products laced with these synthetic substances are being abused mainly by smoking for their psychoactive properties. Smoking mixtures of these substances for the purpose of achieving intoxication has been identified as a reason for numerous emergency room visits and calls to poison control centers. Abuse of these synthetic cannabinoids and their combination products result in both acute and long-term public health and safety issues.

In compliance with Iowa Code section 17A.4(3), the Administrative Rules Review Committee at its July 9, 2013, meeting reviewed the Board's findings and the amendment and approved the Emergency adoption.

The Board finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, 35 days after publication, should be waived and the amendment should be made effective upon filing with the Administrative Rules Coordinator on July 9, 2013. This amendment confers a benefit on the public health and safety by removing these substances and the products laced with these substances from the licit marketplace and ensuring the possession, distribution, manufacture, and use of these products and substances are subject to the controls and penalties applicable to Schedule I controlled substances in Iowa.

The provisions of the rule are not subject to waiver or variance.

The amendment was adopted during the July 9, 2013, meeting of the Pharmacy Board.

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

This amendment is intended to implement Iowa Code sections 124.201(4) and 124.301.

This amendment became effective on July 9, 2013.

The following amendment is adopted.

Adopt the following **new** subrule 10.38(1):

10.38(1) Amend Iowa Code section 124.204 by adding the following new subsection 9:

9. Temporary listing of substances subject to Schedule I. Any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers. Other names: UR-144, 1-pentyl-3-(2,2,3,3-tetramethylcyclopropyl)indole.

b. [1-(5-fluoro-pentyl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, its optical, positional, and geometric isomers, salts and salts of isomers.

HUMAN SERVICES DEPARTMENT[441]**Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 514I.1(2), the Department of Human Services amends Chapter 86, “Healthy and Well Kids in Iowa (HAWK-I) Program,” Iowa Administrative Code.

These amendments reflect programmatic changes affecting the HAWK-I Program as required by the federal Patient Protection and Affordable Care Act. These amendments specifically change the income guidelines for the program to reflect the modified adjusted gross income (MAGI)-equivalent guidelines given to the state by the Centers for Medicare and Medicaid Services (CMS). MAGI is a national standard by which all states must consider family income when determining eligibility for participation in insurance affordability programs (Medicaid, Children’s Health Insurance Program (CHIP), and plans offered through the Health Insurance Marketplace/Exchange). CMS took the Department’s current income guidelines for eligibility and premiums and converted them to their MAGI-equivalent levels. The conversion took into account the deductions and disregards that were allowed under pre-MAGI rules but that are no longer allowed under the MAGI methodology.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 2333C** on November 13, 2013. The Department received no comments from the public concerning the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The HAWK-I Board adopted these amendments on December 18, 2013.

Pursuant to Iowa Code section 17A.5(2)“b”(2), the Department finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2014. These amendments confer a benefit on the public by bringing the HAWK-I Program into compliance with federal regulations, as required by Iowa Code section 514I.1(2).

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

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

These amendments are intended to implement Iowa Code section 514I.1(2).

These amendments became effective January 1, 2014.

The following amendments are adopted.

Item 1. Amend **441—Chapter 86**, preamble, as follows:

PREAMBLE

These rules define and structure the department of human services’ healthy and well kids in Iowa (HAWK-I) program and establish requirements for the third-party administrator responsible for the program administration and for the participating health and dental plans that will be delivering services to the enrollees. The purpose of this program is to provide transitional health and dental care coverage to children who are ineligible for Title XIX (Medicaid) assistance as set forth in this chapter. 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 and dental plans that will be delivering

services to the enrollees. This chapter shall be construed to comply with all requirements for federal funding under Title XXI of the Social Security Act or under the terms of any applicable waiver of Title XXI requirements granted by the Secretary of the U.S. Department of Health and Human Services. To the extent this chapter is inconsistent with any applicable federal funding requirement under Title XXI or the terms of any applicable waiver, the requirements of Title XXI or the terms of the waiver shall prevail.

Item 2. Amend paragraph **86.2(2)“a”** as follows:

a. Countable income. In determining initial and ongoing eligibility for the HAWK-I program, countable income shall not exceed ~~300~~ 302 percent of the federal poverty level for a family of the same size. Countable income shall be determined using the modified adjusted gross income methodology.

Item 3. Amend subrule 86.8(1) as follows:

86.8(1) Income considered. The income considered in determining the premium amount shall be the family's countable income minus 20 percent of the family's earned income using the modified adjusted gross income methodology.

Item 4. Amend subrule 86.8(2) as follows:

86.8(2) Premium amount. Except as specified for supplemental dental-only coverage in subrule ~~86.20(4)~~ 86.20(3), premiums under the HAWK-I program shall be assessed as follows:

a. No premium is charged if:

(1) The eligible child is an American Indian or Alaskan Native; or

(2) The family's countable income is less than ~~150~~ 181 percent of the federal poverty level for a family of the same size.

b. If the family's countable income is equal to or exceeds ~~150~~ 181 percent of the federal poverty level for a family of the same size but does not exceed ~~200~~ 242 percent of the federal poverty level for a family of that size, the premium is \$10 per child per month with a \$20 monthly maximum per family.

c. If the family's countable income is equal to or exceeds ~~200~~ 243 percent of the federal poverty level for a family of the same size, the premium is \$20 per child per month with a \$40 monthly maximum per family.

Item 5. Amend subrule 86.20(3) as follows:

86.20(3) Premiums. Premiums for participation in the supplemental dental-only plan are assessed as follows:

a. No premium is charged to families who meet the provisions of ~~paragraph 86.8(2)“a.”~~ subparagraph 86.8(2)“a”(1) or to families whose countable income is less than 152 percent of the federal poverty level for a family of the same size using the modified adjusted gross income methodology.

b. If the family's countable income is equal to or exceeds ~~150~~ 152 percent of the federal poverty level but does not exceed ~~200~~ 203 percent of the federal poverty level for a family of the same size, the premium is \$5 per child per month with a \$10 monthly maximum per family.

c. If the family's countable income exceeds ~~200~~ 203 percent of the federal poverty level but does not exceed 250 254 percent of the federal poverty level for a family of the same size, the premium is \$10 per child per month with a \$15 monthly maximum per family.

d. If the family's countable income exceeds ~~250~~ 254 percent of the federal poverty level but does not exceed 300 percent of the federal poverty level for a family of the same size, the premium is \$15 per child per month with a \$20 monthly maximum per family.

e. and *f.* No change.

IOWA PUBLIC INFORMATION BOARD[497]**Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code section 23.6, the Iowa Public Information Board hereby amends Chapter 1, "Organization and General Administration," Iowa Administrative Code.

These amendments add to the rules in Chapter 1 the Board's address, e-mail address, fax number, telephone number and Web address, all of which were unavailable at the time these rules were Adopted and Filed and published as **ARC 2888C** in the May 9, 2014, Iowa Administrative Bulletin.

In compliance with Iowa Code section 17A.4(3), the Board finds that notice and public participation in the adoption of these amendments are unnecessary and impractical because these amendments merely make changes to insert actual information where appropriate in this chapter where there now appears "[address]," "[e-mail address]," "[fax number]," [telephone number]," and "[Web address]."

In compliance with Iowa Code section 17A.4(3), the Administrative Rules Review Committee at its September 10, 2014, meeting reviewed the Board's findings and the amendments and approved the adoption of this rule making.

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

These amendments are intended to implement Iowa Code chapter 23.

These amendments will become effective on November 18, 2014.

The following amendments are adopted.

Item 1. Amend subrule 1.1(8) as follows:

1.1(8) The board is available to assist in achieving compliance with open meetings and public records laws in alternative ways. Information is available on the board's Web site at ~~[Web address]~~ <https://ipib.iowa.gov/>. The members of governmental bodies and the public may call the board for informal answers to questions during office hours from 8 a.m. to 4:30 p.m. on Monday through Friday at ~~[telephone number]~~ (515)725-1781. Written guidance about compliance with the open meetings and public records laws may be provided by advisory opinions (see rules 497—1.2(84GA,ch1115) and 497—1.3(84GA,ch1115)) or by declaratory orders (see rules 497—3.1(84GA,ch1115) to 497—3.8(84GA,ch1115)). In addition, complaints may be filed alleging violations of open meetings or public records laws under rule 497—2.1(84GA,ch1115).

Item 2. Amend subrule 1.3(1) as follows:

1.3(1) Requests for board advisory opinions may be mailed to the Iowa Public Information Board, ~~[address]~~ Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Requests may also be submitted by fax to ~~[fax number]~~ (515)725-1789 or by e-mail to ~~[e-mail address]~~ ipib@iowa.gov.

“Double Barreling”

The simultaneous submission of an Adopted and Filed Emergency document and a Notice of Intended Action pertaining to the same rule or amendment is known as “double barreling.” An agency “double barrels” a rule by filing an Adopted and Filed Emergency document but also submitting the rule in a Notice of Intended Action under the normal rule-making process.

This double-barrel filing enables the agency to allow for public participation and comment even though the rule was also adopted on an emergency basis. The agency must fully consider all comments received as a result of publication of the Notice under the normal rule-making process. The rule proposed in the Notice may be Adopted and Filed and replace the rule adopted under the earlier Adopted and Filed Emergency rule making.

Each document must cross-reference the other document by ARC number.

The Notice of Intended Action document may, at the end of the preamble, incorporate by reference the content of the Adopted and Filed Emergency rule making.

EXAMPLE OF DOUBLE BARRELING:

ARC _____

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20, the Department of Human Services amends Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

These amendments implement the January 1, 2015, cost-of-living increases to several State Supplementary Assistance categories.

Effective January 1, 2015, the Supplemental Security Income (SSI) benefit was increased according to the increase in the consumer price index from October 1, 2013, through September 30, 2014. The Social Security Administration has announced that this increase is 1.7 percent. In order to comply with the federal pass-along requirement in calendar year 2015 using the payment levels method of compliance, Iowa must increase the payment amounts and income limits for each State Supplementary Assistance category (except in-home health-related care (IHHRC) provider rates and the supplement for Medicare and Medicaid eligibles) effective January 1, 2015, to equal the minimum levels required by the federal government. The minimum levels are increased each time the SSI benefit is increased. Also, the Iowa General Assembly has directed the Department to increase the personal needs allowance of clients in the residential care facility program by the same percentage and at the same time as the SSI cost-of-living increase.

The Council on Human Services adopted these amendments on December 10, 2014.

Pursuant to Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments increase payment amounts and income limits under the State Supplementary Assistance program in accordance with cost-of-living increases in SSI benefits and are required in order to meet

federal pass-along requirements. In addition, 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20, permits the Department to adopt emergency rules for this purpose.

Pursuant to Iowa Code section 17A.5(2)“b”(1) and (2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments made effective January 1, 2015. These amendments confer a benefit on the public by implementing the necessary cost-of-living increases and are in compliance with 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20.

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

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

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

These amendments are intended to implement Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20.

These amendments became effective January 1, 2015.

The following amendments are adopted.

Item 1. Amend subrule 51.4(1) as follows:

51.4(1) Income. Income of a dependent relative shall be less than ~~\$370~~ \$377. When the dependent’s income is from earnings, an exemption of \$65 shall be allowed to cover work expense.

Item 2. Amend rule 441—51.7(249) as follows:

441—51.7(249) Income from providing room and board. In determining profit from furnishing room and board or providing family life home care, ~~\$370~~ \$377 per month shall be deducted to cover the cost, and the remaining amount treated as earned income.

This rule is intended to implement Iowa Code sections 249.3 and 249.4.

Item 3. Amend subrule 52.1(1) as follows:

52.1(1) Protective living arrangement. The following assistance standards have been established for state supplementary assistance for persons living in a family life home certified under rules in 441—Chapter 111.

| | | |
|-------------------------------|--|--------------------|
| \$783 <u>\$794</u> | | Care allowance |
| \$100 <u>\$101</u> | | Personal allowance |
| \$883 <u>\$895</u> | | Total |

Item 4. Amend subrule 52.1(2) as follows:

52.1(2) Dependent relative. The following assistance standards have been established for state supplementary assistance for dependent relatives residing in a recipient’s home.

- a. Aged or disabled client and a dependent relative ~~\$1,091~~ \$1,110
- b. Aged or disabled client, eligible spouse, and a dependent relative ~~\$1,452~~ \$1,477
- c. Blind client and a dependent relative ~~\$1,113~~ \$1,132
- d. Blind client, aged or disabled spouse, and a dependent relative ~~\$1,474~~ \$1,499
- e. Blind client, blind spouse, and a dependent relative ~~\$1,496~~ \$1,521

Item 5. Amend subrule 52.1(3), introductory paragraph, as follows:

52.1(3) Residential care. Payment to a recipient in a residential care facility shall be made on a flat per diem rate of \$17.86 or on a cost-related reimbursement system with a maximum per diem rate of ~~\$29.66~~ \$30.05. The department shall establish a cost-related per diem rate for each facility choosing this method of payment according to rule 441—54.3(249).

ARC _____

**HUMAN SERVICES DEPARTMENT[441]
Notice of Intended Action**

Pursuant to the authority of Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20, the Department of Human Services gives Notice of Intended Action to amend Chapter 51, “Eligibility,” and Chapter 52, “Payment,” Iowa Administrative Code.

These amendments implement the January 1, 2015, cost-of-living increases to several State Supplementary Assistance categories.

Effective January 1, 2015, the Supplemental Security Income (SSI) benefit was increased according to the increase in the consumer price index from October 1, 2013, through September 30, 2014. The Social Security Administration has announced that this increase is 1.7 percent. In order to comply with the federal pass-along requirement in calendar year 2015 using the payment levels method of compliance, Iowa must increase the payment amounts and income limits for each State Supplementary Assistance category (except in-home health-related care (IHHRC) provider rates and the supplement for Medicare and Medicaid eligibles) effective January 1, 2015, to equal the minimum levels required by the federal government. The minimum levels are increased each time the SSI benefit is increased. Also, the Iowa General Assembly has directed the Department to increase the personal needs allowance of clients in the residential care facility program by the same percentage and at the same time as the SSI cost-of-living increase.

Any interested person may make written comments on the proposed amendments on or before January 27, 2015. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may also be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations since the increases are required by federal and state law.

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

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

These amendments are intended to implement Iowa Code section 217.3(6) and 2013 Iowa Acts, chapter 138, section 144, as amended by 2014 Iowa Acts, House File 2463, section 20.

*Because the amendments in the Adopted and Filed Emergency rule making are incorporated by reference in the Notice of Intended Action, they are not included in the Notice of Intended Action.

Uniform Rules on Agency Procedure

In 1987, a gubernatorial task force completed work on a uniform set of rules establishing agency procedures for rule making. The Uniform Rules were amended by the Iowa Attorney General's office in 1998 in response to legislative changes to Iowa Code chapter 17A. Adoption of the Uniform Rules enables all agencies to follow the same rule-making procedures, and many agencies have adopted the rules by reference.

The Uniform Rules establish specific procedural requirements for rule making and are an attempt to maximize public access, awareness and participation in the rule-making process.

Agencies should carefully review the Uniform Rules, especially uniform rule X.17(17A) of the "Agency Procedure for Rule Making" chapter. This rule requires agencies to review their rules and decisions of particular applicability (e.g., contested cases).

Agencies are encouraged to adopt by reference the Uniform Rules of the Governor's Task Force as published online at <https://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf>. Any exceptions to the Uniform Rules should be set out. Many agencies have assigned individual chapter numbers for each segment, leaving reserved chapter numbers for future expansion.

An agency adopting the Uniform Rules chapter on fair information practices should include in the preamble of its rule making a cross reference to Iowa Code section 22.11 in addition to the citation of the agency's specific rule-making authority.

EXAMPLE OF UNIFORM RULES ADOPTED BY REFERENCE:

CHAPTER 5 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

The department of inspections and appeals hereby adopts by reference, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to fair information practices, which are published at <https://www.legis.iowa.gov/docs/Rules/Current/UniformRules.pdf> on the General Assembly's Web site.

481—5.1(17A,22) Definitions.

"Agency." In lieu of the words "(official or body issuing these rules)", insert "department of inspections and appeals".

481—5.3(17A,22) Requests for access to records.

5.3(1) Location of record. In lieu of the words "(insert agency name and address)", insert "Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319".

481—5.6(17A,22) Procedure by which a subject may have additions, dissents, or objections entered into the record. In lieu of the words "(designate office)", insert "the originating agency, or to the director's office".

Adoption by Reference

Adoption by reference is a legal tool that allows an agency to take a standard published by another entity and make it an enforceable part of the agency's rule without reprinting the entire text in its rule.

When adopting material by reference, the agency should explicitly state in rule that the material is "adopted by reference" and state the date, issue, or version of the material adopted. Use of a phrase like "as amended" without a date certain or "including future amendments" should be avoided.

Agency requirements for ensuring public access to material adopted by reference are located in Iowa Code section 17A.6(2).

EXAMPLE OF ADOPTION-BY-REFERENCE RULE MAKING:

ARC _____

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 100.1, the State Fire Marshal hereby amends Chapter 201, "General Fire Safety Requirements," Iowa Administrative Code.

The State Fire Marshal has the authority to adopt rules relating to electrical installations as they pertain to fire safety and, pursuant to that authority, adopts succeeding editions of the National Electrical Code in a timely fashion. The rule adopted herein updates the adoption to the latest (2011) edition of the National Electrical Code, with amendments.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9999B**. A public hearing on the proposed amendment was held on August 18, 2011. Comments were received from representatives of the Home Builders Association of Iowa, the National Fire Protection Association, and other interested parties. There were expressions of support for adoption of the 2011 edition of the National Electrical Code without any amendments. Commenters also expressed support for adoption of the new edition of the Code while retaining amendments that had been included in adoption of the prior edition of the Code, which provided exceptions for situations in which ground fault circuit interrupters are required.

The State Fire Marshal has concluded that exemption of certain electrical installations from the required use of ground fault circuit interrupters is appropriate. Consequently, the adopted rule published herein differs from the rule proposed in the Notice of Intended Action in that it includes amendments exempting certain installations from the required use of ground fault circuit interrupters.

No fiscal impact is anticipated.

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

This amendment is intended to implement Iowa Code chapter 100.

This amendment will become effective January 1, 2012.

The following amendment is adopted.

Rescind rule 661—201.3(100) and adopt the following **new** rule in lieu thereof:

661—201.3(100) Electrical installations. Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, 2011 edition, with the following amendments:

201.3(1) Add the following exceptions to section 210.8, paragraph (A), subparagraph (2):

- a.* Exception No. 1 to (2): Receptacles that are not readily accessible.
- b.* Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c.* Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

201.3(2) Add the following exceptions to section 210.8, paragraph (A), subparagraph (5):

- a.* Exception No. 2 to (5): Receptacles that are not readily accessible.
- b.* Exception No. 3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c.* Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

This rule is intended to implement Iowa Code chapter 100.

Deadlines and Dates

Filing Deadlines

Filing deadlines and publication dates are printed in the Schedule for Rule Making in the IAB and on the Web at <https://www.legis.iowa.gov/docs/Rules/RuleMakingSchedule2016.pdf>.

Rule-making documents will not be accepted after 12 noon on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator (ARC) and Administrative Code Editor. If the filing deadline falls on a legal holiday, submissions made on the following Monday may be accepted. Possible exceptions are Thanksgiving, Christmas, and New Year's Day.

Important Dates

Under the regular rule-making procedure, the key date is the date on which the rule making is published in the Iowa Administrative Bulletin.

Public hearings and written comments. The agency must allow a minimum of 20 days for receipt of public comments and before holding any public hearings. [§17A.4(1)“b”] The 20-day period is counted from the date the Notice of Intended Action is published in the IAB. In computing time, the first day is not counted, but the last day is counted.

Adopting a rule. An agency must allow 35 days after the publication of the Notice of Intended Action before adopting a rule. An agency “adopts” a rule when it votes approval or when the person with rule-making authority signs the rule-making document. An agency has 180 days after the publication of a Notice of Intended Action or 180 days after oral presentations, whichever is later, within which to adopt a rule. [§17A.4]

Terminating a Notice of Intended Action. If the agency fails to adopt the rule within the 180-day time frame, it must terminate the proceedings by publishing a Notice of Termination in the Iowa Administrative Bulletin. [§17A.4(1)“b”] An agency may also terminate a Notice for other reasons.

Effective dates:

•**Adopted and Filed** or **Adopted and Filed Without Notice:** The rule may become effective 35 days after publication of the rule making in the IAB or on a later date specified by the agency.

•**Adopted and Filed Emergency** or **Adopted and Filed Emergency After Notice:** The rule may become effective upon filing with the ARC or on a later date specified by the agency.

Regulatory Analysis. The agency shall issue a Regulatory Analysis if, within 32 days after publication of the Notice, a written request is filed with the agency by the Administrative Rules Review Committee, the ARC, at least 25 small-business persons signing the request, or an organization representing at least 25 such persons. A concise summary of the Regulatory Analysis must be published in the IAB at least 20 days prior to the adoption of the rule. In the case of a rule adopted Emergency or without Notice, the summary must be published within 70 days after the request. [§17A.4A]

Tips Worth Noting

When citing a publication, include the publication date or edition. References to CFRs require a date certain. Do not use “as amended” unless a specific date is cited.

Avoid repeating or substantially paraphrasing a statute when drafting rules. However, a statute or a part thereof may be included in rules by reference.

According to Iowa Code section 4.1, use of the word “shall” imposes a duty, “may” confers a power, and “must” states a requirement. “Will” reflects the future tense.

When rules are renumbered or rescinded, cross references to the rules must also be changed. Instead of renumbering, consider reserving the rule number; the reserved number may be used in a subsequent rule making.

Avoid using the following:

- The plural pronoun “their” when the pronoun’s antecedent is a single individual or entity;
- Now, presently, previously, currently, or hereafter;
- And/or (courts have held this to be a meaningless expression).

Define any abbreviations or acronyms that are used in the rules.

Arrange definitions in alphabetical order and do not number them.

Use figures for numbers that have technical significance or need to stand out for quick comprehension, e.g., in tables, charts, percentages, money, ratios, clock time, dates, and measurements. In all other contexts, spell out numbers from one through ten; use figures for numbers above ten.

Include an implementation sentence at the end of each rule. If identical statutes are being implemented by every rule within a chapter, only one implementation sentence at the end of the chapter is necessary, e.g.:

This rule is intended to implement Iowa Code section 17A.4.

or

These rules are intended to implement Iowa Code section 17A.4.

After each rule number, include a parenthetical reference to the statute being implemented, e.g.:

187—20.1(524)

187—20.1(85GA,HF2130)

187—20.1(524,12CFR16)

187—20.1(17A,524)

187—20.1(85GA,ch1001)

187—20.1(PL63-43)

Style Guidelines

The writer of an administrative rule is confronted with the task of incorporating the purpose of the rule into a coherent, readable text. A major purpose of this guide is to help the rule writer by providing principles of style which make it possible to avoid ambiguity and to write in "plain English." Most of these principles are derived from generally accepted style and usage manuals. This guide addresses only the most common rules and is not intended as a comprehensive grammar and usage book. If the style guidelines that follow do not answer a question of style or usage, refer to The Gregg Reference Manual, Eleventh Edition, or direct your question to the Administrative Code Editor.

General Principles of Style

1. Consistency. The first principle is consistency. The same arrangement and form should be used throughout a rule to avoid varying interpretations that may result from divergent styles and construction. Unlike literary composition, administrative rule style avoids unnecessary variation in sentence form and uses identical words to express identical ideas, even to the point of monotony. Defined words and phrases should be used consistently throughout the rule; use of synonyms or synonymous expressions should be avoided in rules.

a. Do not use different words to denote the same meaning.

| DO NOT WRITE: | WRITE: |
|---|--|
| Each <u>automobile</u> owner shall register the owner's <u>car</u> with the division of motor vehicles. | Each <u>motor vehicle</u> owner shall register the owner's <u>motor vehicle</u> with the division of motor vehicles. |

b. Do not use the same word to denote different meanings.

| DO NOT WRITE: | WRITE: |
|--|--|
| Each <u>tank</u> shall have a 200-gallon <u>tank</u> for fuel. | Each <u>tank</u> shall have a 200-gallon fuel <u>container</u> for fuel. |

c. Sentences should be arranged so that parallel ideas look parallel, especially in a list.

| DO NOT WRITE: | WRITE: |
|---|---|
| The commission shall: (1) Screen applicants; (2) It sets fees; and (3) Submitting reports. | The commission shall: (1) Screen applicants; (2) Set fees; and (3) Submit reports. |

2. Simplicity. The second principle is simplicity. Administrative rule language should be formal, simple and direct.

a. Use familiar words and phrases that best express the intended meaning according to common and approved usage. Avoid jargon, slang, overly technical language, “legalese,” or foreign phrases (including Latin legal terms) unless the word or phrase is a term of art or its use is supported by substantial case law.

b. If it is possible to omit a word and retain the desired meaning, omit the word. Always make sure, however, that omission of the word would not impair the clarity of the sentence.

c. Do not use superfluous and indefinite terms such as “real,” “actual,” “true,” “duly,” “to wit,” “whatsoever,” “current,” and “therewith.”

3. Clarity. The third principle is clarity. When a rule is litigated, the court is generally not asked to decide questions of public policy, but simply to tell the parties what the rule says. Therefore, a rule writer must avoid vagueness. Consistent use of good drafting guidelines (for example, consistency and simplicity) eliminates most vagueness. A rule writer may also use the following techniques:

a. Do not use abstract terms. An administrative rule should be written in language that is simple and concrete.

| DO NOT WRITE: | IF YOU MEAN: |
|---------------|--------------|
| Vehicles | Automobiles |
| Firearms | Handguns |
| Aircraft | Helicopters |

b. Avoid noun clusters. Noun clusters can be avoided by using more prepositions.

| DO NOT WRITE: | WRITE: |
|---------------------------|---------------------------------|
| Water resources loan plan | A loan plan for water resources |

c. Avoid split infinitives.

| DO NOT WRITE: | WRITE: |
|--|--|
| It is necessary under this rule <u>to promptly reply</u> . . . | It is necessary under this rule <u>to reply promptly</u> . . . |

d. Avoid misplaced modifiers. Misplaced modifiers may result in more than one meaning.

| DO NOT WRITE: | WRITE: |
|---|---|
| The director shall notify the applicant of the board’s decision to deny the request <u>within 30 days</u> . | The director shall, <u>within 30 days</u> , notify the applicant of the board’s decision to deny the request. |

e. Avoid dangling constructions. Make sure the subject of the sentence is the doer of the action expressed by the introductory phrase or clause, or add the appropriate noun to the phrase or clause.

| DO NOT WRITE: | IF YOU MEAN: |
|--|---|
| After expiration, the licensee has 30 days in which to renew the license. | After the license expires, the licensee has 30 days in which to renew it. |
| When originating from out of state, an entry permit must be obtained for the animal. | An entry permit must be obtained for an animal that originates from out of state. or The owner must obtain an entry permit for an animal that originates from out of state. |

f. Avoid using personal pronouns. If a pronoun could refer to more than one person in a sentence, repeat the title of the person.

| DO NOT WRITE: | WRITE: |
|---|---|
| After the executive director appoints the director, <u>he</u> shall administer this rule. | After the executive director appoints the director, <u>the director</u> shall administer this rule. |

g. Avoid placing two or more prepositional phrases together. Word order becomes confusing when two or more prepositional phrases are used together.

| DO NOT WRITE: | WRITE: |
|--|--|
| Each applicant for a license in this state . . . | Each license applicant from this state . . . |

UNLESS YOU MEAN: Each applicant for a license to practice in this state . . .

Verb Tense

In addition to following the general principles of consistency, clarity, and simplicity, a rule writer should follow other basic drafting principles. For example, rules should be written in present tense, and time relationships should be clearly expressed.

1. Present tense. A rule continually “speaks” to the person reading it. Therefore, a rule should be written in the present indicative, not in the subjunctive; and in the present perfect, not in the future perfect.

| DO NOT WRITE: | WRITE: |
|--|--|
| A person who violates this rule <u>shall be</u> guilty . . . | A person who violates this rule <u>is</u> guilty . . . |
| If the director <u>shall have been notified</u> . . . | If the director <u>has been notified</u> . . . |

2. Time relationships. If a time relationship must be expressed, present facts may be combined with past facts; for example, “Any person who has committed a felony may not apply for a permit.” Combining present facts with future facts is generally not appropriate because the application of the law does not occur until that future fact happens (for example, “Any person who will commit a felony may not apply for a permit.”).

Voice

1. Active voice. Whenever possible, use the active voice rather than the passive voice.

| DO NOT WRITE: | WRITE: |
|---|---|
| A board <u>shall be appointed</u> to enforce this rule. | The executive director <u>shall appoint</u> a board to enforce this rule. |

2. Action verbs. Whenever possible, use single action verbs instead of verb phrases.

| DO NOT WRITE: | WRITE: |
|-------------------------|-------------|
| give consideration to | consider |
| give recognition to | recognize |
| have knowledge of | know |
| have need of | need |
| is applicable | applies |
| make an appointment of | appoints |
| make application | apply |
| make payment | pay |
| make provision for | provide for |
| make a determination of | determine |

3. Positive voice. Write positively. If an idea can be expressed both positively and negatively, express it positively.

| DO NOT WRITE: | WRITE: |
|--|--|
| The director <u>may not appoint</u> members other than those with three years' experience. | The director <u>shall appoint</u> three members with at least three years' experience. |

Avoid several negatives in one sentence.

| DO NOT WRITE: | WRITE: |
|--|---|
| The project may not be approved unless all requirements are met. | The project may be approved only if all requirements are met. |

Number and Gender

1. Singular and plural. Phrases like “person or persons” or “person(s)” are unnecessary. Using the singular avoids the problem of whether the rule applies separately to each member of a class or to the class as a whole.

| DO NOT WRITE: | WRITE: |
|--|--|
| The division shall issue licenses to applicants qualified as dentists. | The division shall issue a license to an applicant who qualifies as a dentist. |

2. Compound terms. If a compound word is plural, the significant word takes the “s.”

| SINGULAR: | PLURAL: |
|---------------------|----------------------|
| attorney general | attorneys general |
| corporation counsel | corporation counsels |
| lieutenant governor | lieutenant governors |
| notary public | notaries public |
| right-of-way | rights-of-way |

3. Agreement. Pronouns must agree with their antecedents. Do not use the pronoun “their,” which is plural, to refer to a singular antecedent.

| DO NOT WRITE: | WRITE: |
|--|---|
| The board shall notify the licensee within ten days of <u>their</u> decision to revoke <u>their</u> license. | The board shall notify the licensee within ten days of the <u>board's</u> decision to revoke the <u>licensee's</u> license. |

4. Gender. Gender-based distinctions are rarely appropriate, and gender-neutral language should be used when possible. Phrases such as “he or she” are unnecessary; the rule writer should try to use gender-neutral language. To the extent possible, the writer should use the following techniques to avoid the use of gender-specific pronouns while avoiding awkward or artificial terms or phrases.

a. Repeat the word that would have been the pronoun’s antecedent reference.

EXAMPLE: A person shall receive an exemption if ~~he~~ the person submits the application.

b. Substitute a noun for the pronoun.

EXAMPLE: If ~~he~~ a party becomes aware of evidence of bias, the party may move for disqualification.

c. Omit the pronoun or the phrase that would include the pronoun if the pronoun or phrase is not essential.

EXAMPLE: The director shall hold ~~his~~ office until a successor is appointed.

d. Use an article such as “a,” “an,” “the,” or “that” instead of the pronoun.

EXAMPLE: The person shall submit ~~his~~ an application.

e. Reconstruct or rewrite the sentence to avoid the need for a pronoun.

| | |
|--|--|
| Use a relative clause. | If an An applicant <u>who</u> has been licensed in another state, he shall submit a verified application. |
| Use a modifier without an expressed subject. | If the commissioner finds Upon finding that the sampling frequency can be safely reduced, he <u>the commissioner</u> may order it reduced as specified in subrule 14.5(2). |
| Substitute a verb. | A person who imports or has in his possession <u>possesses</u> an illegal drug commits a first degree felony. |

The following table contains examples of preferred gender-neutral language.

| DO NOT WRITE: | WRITE: |
|--------------------------|---|
| bondsman | bonder |
| brother | sibling |
| businessman | executive |
| chairman, chairwoman | chairperson or chair |
| committeeman | committee member |
| daughter, daughters | child, children |
| draftsman | drafter |
| father | parent |
| female | person |
| fireman | firefighter |
| fisherman | fisher |
| foreman | supervisor |
| grandfather, grandmother | grandparent |
| husband | spouse |
| husband and wife | married couple |
| layman | lay person |
| mailman | mail carrier |
| male, man | person, individual |
| manhours | hours worked, worker hours |
| manmade | artificial, synthetic |
| manpower | personnel, staff |
| mother | parent |
| nurseryman | nursery operator |
| policeman | peace officer, police officer, sheriff, trooper |
| sister | sibling |
| son, sons | child, children |
| warehouseman | warehouse keeper |
| widow, widower | surviving spouse |
| wife | spouse |
| woman | person, individual |

Structure and Word Selection

1. Exceptions. The rule writer should state a general principle or category first and then, in simple terms, any exceptions that apply. The word “except” should be used to introduce an exception.

EXAMPLE: These rules apply to all facilities governed by Iowa Code chapter 356 except temporary holding facilities.

If there are multiple conditions or exceptions, the writer should consider: (1) placing all exceptions in a separate rule which can be referenced in the general rule; or (2) placing an enumerated list at the end of the sentence in which the general rule has been stated.

EXAMPLES:

(1) Except as provided in rule . . . , the director shall . . .

(2) Records retained by the commission are open records except for the following:

- 1.
- 2.

2. Conditions. When conditions are used, they should be stated in simple terms. If only one or two conditions apply, they should be stated first and the general principle should follow. The word “if” should be used to introduce the condition.

EXAMPLE: If a written request for oral presentation is timely received, the agency shall . . .

3. Limitations. Limitations should be avoided if possible. Generally, a rearrangement of sentences and wording will accomplish the writer’s objective without the use of a limitation. If a limitation is used, it should follow the general principle and be introduced with the word “but.”

EXAMPLE: “Person” means individual, corporation, firm, and partnership but does not include a public entity.

4. Enumerations. The rule writer should enumerate or list exceptions or conditions in separate paragraphs whenever possible. Enumerations should be preceded by introductory language stating the general principle followed by a colon. Each condition or exception should then be followed by a period or a semicolon. If a semicolon is used, the next to last item in the enumeration may be followed by a conjunction.

EXAMPLE: This rule does not apply to:

- (1) Investment companies;
- (2) Securities brokers and dealers; or
- (3) Insurance companies.

5. Paragraphs. By assigning each paragraph a number or letter, the writer makes the rule easier to understand and facilitates accurate citation. The writer should avoid adding unnumbered or unlettered paragraphs to the end of a rule. The reader may not understand how this “dangling” paragraph relates to the previous parts of the rule.

6. Acronyms. If an acronym is used, the writer should clearly define it. An acronym may be defined in the “Definitions” portion of the rules, or it may be defined the first time it appears in each rule in which it is used. Most acronyms do not include periods.

7. Official titles. In referring to a public officer or agency, use the official title of the person or agency as designated in statute.

8. Special terms.

And/Or

Do not use “and/or.” The writer should be able to determine which term is correct. If all the items in an enumeration are to be taken together, the last two items may be joined by the conjunction “and.” If the items are to be taken in the alternative, “or” is used. The writer may also use “or both” or a similar phrase.

Notwithstanding

Avoid the use of the term “notwithstanding” unless referring to a specific conflicting Iowa Code section.

Regulations

“Rules” and “regulations” are two different things. “Rules” are made by administrative agencies in this state and are referred to as such in official publications. The term “regulations” refers to federal regulations. For more information, see Iowa Code section [4.1](#).

Section

The word “section” should be used in reference to statute but should not be used in reference to a rule. Rules may be divided into “subrules”; subrules may be divided into “paragraphs”; and paragraphs may be divided into “subparagraphs.”

Spelling, Punctuation, Numerical References

If questions arise regarding spelling, punctuation, or numerical references, the writer should consult a dictionary or The Gregg Reference Manual.

Capitalization

Although proper nouns and titles of officials and agencies are capitalized in the preamble of a rule-making document, capitalization should be used sparingly in the text of rules. In the text of rules, capitalize Iowa Administrative Code, Iowa Administrative Bulletin, Iowa Code, Act, proper names (exception, state or local appointed officials’ titles), names of publications, addresses, federal acts, House File, Senate File, Chapter (when referring to a specific chapter in the IAC), and Class, Grade and Form when used with a letter, number or name.

Citation of Rules Within the Iowa Administrative Code

The citation style shown in the following examples should be used for citation of a rule or rule subpart within a chapter of the Iowa Administrative Code.

1. The order shall be published as provided in rule 441—10.1(17A). (The agency identification number and dash are always included in a rule citation.)
2. Notice shall be in accordance with subrule 10.1(4).
3. Requirements are set out in paragraph 10.1(4) “b.”
4. A person shall apply for services in accordance with subparagraph 10.1(4) “d”(6).

If the references above were citations in a different chapter of the same agency or that of another agency, the agency identification number followed by a dash would be included in the citation. For example:

1. The appeals procedures are set forth in 441—Chapter 10.
2. The order shall be published as provided in rule 441—10.1(17A).
3. Notice shall be in accordance with 441—subrule 10.1(4).
4. Requirements are set out in 441—paragraph 10.1(4) “b.”
5. A person shall apply for services in accordance with 441—subparagraph 10.1(4) “d”(6).

Glossary

| | |
|---|--|
| ACTS (SESSION LAWS) | The Acts (laws) passed by each General Assembly. |
| ADMINISTRATIVE RULES REVIEW COMMITTEE (ARRC) | The ten-member, bipartisan legislative committee composed of five senators, three of whom are appointed by the Majority Leader of the Senate and two of whom are appointed by the Minority Leader of the Senate, and five representatives, three of whom are appointed by the Speaker of the House and two of whom are appointed by the Minority Leader of the House. The Administrative Rules Review Committee has both substantive and advisory powers. |
| ADOPTED AND FILED | Publication of this document is the second step in the normal rule-making process. Adoption, amendment or rescission of a rule may take place no sooner than 35 days after publication of the Notice of Intended Action in the Iowa Administrative Bulletin (IAB). Rules so adopted or amended shall not become effective until 35 days after publication of the agency's Adopted and Filed document in the IAB. |
| ADOPTED AND FILED EMERGENCY | With this document, an agency adopts, amends or rescinds a rule without providing for notice and public participation. The action may become effective immediately upon the filing of the document with the ARC, or a later effective date may be specified. [§§17A.4(3) and 17A.5(2) "b"] |
| ADOPTED AND FILED EMERGENCY AFTER NOTICE | With this document, an agency that has caused to be published a Notice of Intended Action and allowed for public comment may waive the second 35-day waiting period to provide for an earlier effective date. [§17A.4(1) and 17A.5(2) "b"] |
| ADOPTED AND FILED WITHOUT NOTICE | With this document, an agency, under certain circumstances, may adopt, amend or rescind rules without providing for notice and public participation. The effective date of a rule Adopted and Filed Without Notice is a minimum of 35 days after publication of the rule making in the IAB. [§17A.4(3)] |
| AGENCY | Each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the General Assembly, the Judicial Branch or any of its components, the Office of Consumer Advocate, the Governor, or a political subdivision of the state or its offices and units. [§17A.2] |
| AGENCY IDENTIFICATION NUMBER | The bracketed identification number following the agency name in the Iowa Administrative Code and the Iowa Administrative Bulletin. This number is assigned by the Administrative Code Editor and must precede each rule number. The agency identification number remains the same unless the legislature changes the name of the agency. A list of agency identification numbers is published in the IAB. |
| AMENDED NOTICE OF INTENDED ACTION | This document must be published when the Notice of Intended Action did not provide for a public hearing but one was timely requested in writing pursuant to Iowa Code section 17A.4(1) "b." The Amended Notice of Intended Action shall announce the date, time and location of the public hearing. Also, an agency may submit for publication an Amended Notice of Intended Action to solicit further public participation on substantive changes to the Notice. |

| | |
|-------------------------|--|
| ARC | The Administrative Rules Coordinator appointed by the Governor to receive all rule-making documents and to provide the Governor with an opportunity to review and object to any rule as provided in Iowa Code chapter 17A. In addition, the ARC shall keep a permanent register (depository) of the rules open to public inspection. (Prior to July 1, 1978, the Secretary of State served as depository.) [§§7.17 and 17A.5] |
| ARC NUMBER | The identification number assigned by the ARC to each rule-making document submitted for publication in the IAB. The ARC number is used to trace and identify that particular document. Most rule-making procedures include two distinct ARC numbers: one for the Notice of Intended Action and a second for the Adopted and Filed document. |
| <u>ART SITE</u> | The online electronic filing system, overseen by the Governor's office, in which agencies submit rule-making documents to the ARC. |
| CFR | Code of Federal Regulations. When citing CFRs in a rule, a date certain shall be included. |
| CONCISE STATEMENT | If requested to do so by an interested person, either prior to adoption of a rule or within 30 days thereafter, the agency shall issue a Concise Statement of the principal reasons for and against the rule it adopted. [§17A.4(2)] |
| DELAY | The Administrative Rules Review Committee may delay the effective date of a rule 70 days for further study or until adjournment of the next regular session of the General Assembly. Notification of this fact shall be published in the IAB and IAC. [§§17A.4(7) and 17A.8(9)] |
| "DOUBLE BARRELING" | An expression used for the rule-making method in which a Notice of Intended Action and an Adopted and Filed Emergency rule-making document are submitted for simultaneous publication in the IAB. |
| EXECUTIVE ORDER | A formal order signed by the Governor and published in the IAB. The Governor may rescind an adopted rule by Executive Order within 70 days of the rule's becoming effective. The order shall be published in the IAB. [§17A.4(8)] All Executive Orders of the Governor which are general and permanent in nature are also published in the IAB. [§2B.5A] |
| FISCAL IMPACT STATEMENT | See Iowa Code sections <u>25B.6</u> and <u>17A.4(4)</u> for requirements for fiscal impact statements relative to rule making. |
| HISTORY | A chronological record of rule-making actions. The history appears at the end of each chapter of rules in the Iowa Administrative Code. An abbreviated history appears at the end of all rules amended or adopted after February 11, 2009. |
| IAB | The Iowa Administrative Bulletin, the biweekly notice of all proposed and adopted changes to administrative rules. The IAB is published every other Wednesday and may be accessed on the General Assembly's Web site at https://www.legis.iowa.gov/law/administrativeRules/bulletinSupplementListings . The IAB contains Notices of Intended Action and rules adopted by state agencies; Executive Orders; <u>delays</u> and <u>objections</u> ; resolutions <u>nullifying administrative rules</u> ; the agenda of Administrative Rules Review Committee meetings; the Schedule for Rule Making; a list of public hearings; items required to be published by statute; and other materials deemed fitting and proper by the Administrative Rules Review Committee. [§2B.5A(5)] |

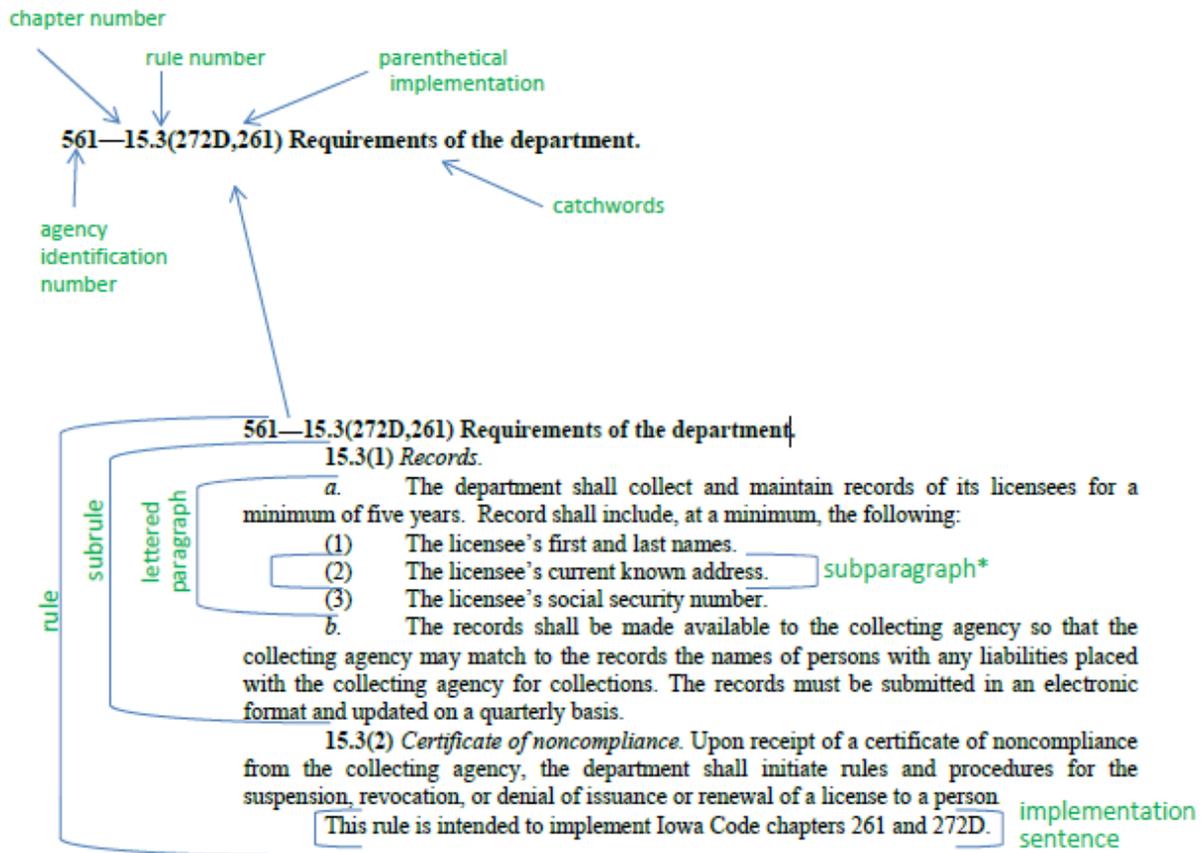
| | |
|---------------------------------------|---|
| IAC | The Iowa Administrative Code, the composite of all administrative rules promulgated by state agencies. The IAC is supplemented biweekly. The IAC may be accessed on the General Assembly's Web site at the following address: https://www.legis.iowa.gov/law/administrativeRules/agencies . |
| IAPA | The Iowa Administrative Procedure Act effective July 1, 1975. [Iowa Code chapter <u>17A</u>]. |
| IMPLEMENTATION SENTENCE | A reference to the statute or statutes which the rule is intended to implement. The reference is to the Iowa statute, Executive Order, federal statute or regulation which the rule carries out and is included in the preamble of each rule-making document and at the end of each rule or chapter of rules, as applicable. |
| IOWA CODE | The compilation of the laws of Iowa as promulgated by the General Assembly. |
| ITEM STATEMENT | The sentence that states which rule is being amended, adopted, rescinded or renumbered. In a rule-making document, an Item Statement introduces each proposed or adopted change to a rule. If a rule-making document has more than one Item Statement, the Item Statements are numbered (e.g., ITEM 1). |
| JOBS IMPACT STATEMENT | A statement that indicates whether the proposed or adopted rule has a positive or negative impact on private sector jobs and employment opportunities in Iowa and that describes the nature of the impact. [<u>Executive Order 71 (3/7/11)</u>] |
| NOTICE OF INTENDED ACTION | This document declares an agency's intent to adopt, amend or rescind a rule. Pursuant to Iowa Code section <u>17A.4(1)</u> , publication of a Notice of Intended Action in the IAB shall precede the adoption, amendment or rescission by at least 35 days. |
| NOTICE OF TERMINATION | With this document, pursuant to Iowa Code section <u>17A.4(1)"b,"</u> an agency terminates any rule-making proceeding that has not been adopted within 180 days of publication of the Notice of Intended Action or the last date of oral presentation, whichever is later. An agency may elect to terminate any Notice of Intended Action in lieu of adoption. In the situation of "double barreling," when no comments were received or no substantive changes were made following publication of the Notice of Intended Action, it is appropriate to terminate the Notice of Intended Action. |
| NULLIFICATION OF ADMINISTRATIVE RULES | The General Assembly may nullify an adopted administrative rule of a state agency by passage of a Joint Resolution by a majority of all of the members of each house of the General Assembly. [Iowa Const. art. III, §40], The Administrative Code Editor shall publish the Joint Resolution in the Iowa Administrative Bulletin and cause to be omitted from the Iowa Administrative Code all rules which have been nullified. [§2B.5A] |
| OBJECTION | There are two types of objections which may be imposed by the Administrative Rules Review Committee, the Governor, or the Attorney General. (1) An objection to an emergency adoption by an agency that for good cause finds that notice and public participation would be unnecessary, impracticable or contrary to public interest. With this objection the rule would cease to be effective 180 days after the date the objection was filed. [<u>§17A.4(6)</u>] |

| | |
|------------------------------|--|
| | <p>(2) An objection to a proposed, adopted or emergency rule which the ARRC, Governor or Attorney General deems to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency.</p> <p>A certified copy of any objection shall be filed with the Administrative Code Editor and published in the IAB and IAC.</p> |
| ORAL PRESENTATION | This term is synonymous with “public hearing.” [§17A.4] |
| PREAMBLE | <p>The explanatory paragraphs that preface each rule-making document.</p> <p>Also, an agency will sometimes include before the first rule in a chapter a preamble summarizing the intent of the rules.</p> |
| PROPOSAL | Synonymous with Notice or Notice of Intended Action. |
| PUBLIC HEARING | This term is synonymous with “oral presentation” as prescribed in Iowa Code section 17A.4(1) “b” and is the term used in rule-making documents to refer to meetings in which the public may attend to comment on proposed rules or amendments. |
| REFERRAL TO GENERAL ASSEMBLY | The Administrative Rules Review Committee may refer a rule to the Speaker of the House and the President of the Senate. Those officers may then refer such a rule to the appropriate standing committee of the General Assembly for study. The Committee may include a recommendation that a rule be overcome by statute. This action does not change the effective date of a rule. [§17A.8(7),(8)] |
| REGULATORY ANALYSIS | On written request by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 small-business persons signing the request, or an organization representing at least 25 such persons, the agency shall issue a Regulatory Analysis. A summary of this analysis must be published in the IAB. [§17A.4A] |
| RESCISSION BY GOVERNOR | The Governor may rescind an adopted rule by Executive Order within 70 days of the effective date of the rule. The Executive Order shall be published in the IAB. [§17A.4(8)] |
| RULE | An agency statement that is the equivalent of statutory law. It differs from statute in that it is adopted by an administrative body as opposed to the legislature, and it affects the general public as opposed to specific individuals. Numerous exceptions to the definition of “Rule” are set out in Iowa Code section 17A.2(11). |
| RULE MAKING | The process for adopting, amending, or repealing (rescinding) a rule. [§17A.2(12)] |
| RULE-MAKING DOCUMENT | The submission which initiates each step in the rule-making process. A rule-making document contains a preamble and items that set forth the rules or amendments an agency proposes or adopts. Once the document is accepted for publication, it is assigned an ARC number and is published in the IAB. The rules or amendments in an adopted rule-making document are also published in the IAC Supplement and incorporated into the IAC. |
| SCHEDULE FOR RULE MAKING | Table of time frames for the various steps of rule making. This table is updated annually and published in the IAB and on the Web at https://www.legis.iowa.gov/docs/Rules/RuleMakingSchedule2016.pdf . |

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| UNIFORM RULES | Rules of Agency Procedure for Rule Making, Petitions for Rule Making, Declaratory Orders, Fair Information Practices, and Contested Cases developed by a gubernatorial task force. These rules are suitable for adoption by reference by most state agencies and may be accessed at https://www.legis.iowa.gov/law/administrativeRules/ruleWriterInfo . |
| U.S.C. | United States Code. |
| WAIVER | An agency action which suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person. [<u>§17A.9A</u>] |

Appendix

Parts of a Rule



*May be further divided as follows:

- (2) Records shall include, at a minimum, the following:
1. The licensee's first and last names.
 2. The licensee's current known addresses, including:
 - Mailing address.
 - Street address, if different from mailing address.
 - E-mail address, if provided.
 3. The licensee's social security number.