



IOWA ADMINISTRATIVE BULLETIN

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PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

PLEASE NOTE: Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

STEPHANIE A. HOFF, Administrative Code Editor

Telephone: (515)281-3355

CITATION of Administrative Rules

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

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

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

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

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

Schedule for Rule Making 2018

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

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
26	Friday, June 1, 2018	June 20, 2018
1	Wednesday, June 13, 2018	July 4, 2018
2	Friday, June 29, 2018	July 18, 2018

PLEASE NOTE:

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

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

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

The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, June 12, 2018, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

CORRECTIONS DEPARTMENT[201]

Review and update of policies and procedures, amendments to chs 1, 5, 10, 11, 20, 38, 40 to
45, 47, 50, 51 Notice **ARC 3806C** 5/23/18

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Initial issuance of NPDES General Permit Nos. 8 and 9, 64.3, 64.4, 64.6, 64.15, 64.16 Filed **ARC 3786C**..... 5/9/18

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

911 telephone systems, 10.2, 10.4(2), 10.7, 10.9, 10.13 Notice **ARC 3778C**..... 5/9/18

HUMAN SERVICES DEPARTMENT[441]

Appeals—filing on behalf of Medicaid member, withdrawal, continuation of assistance,
7.2(5), 7.5(2), 7.6(2), 7.8, 7.9 Notice **ARC 3783C** 5/9/18
Appeals and hearings, 7.5(4), 7.16, 7.21(3), 7.46 Filed **ARC 3787C** 5/9/18
Autism support program eligibility, 22.1, 22.2(4) Filed **ARC 3788C** 5/9/18
Quality assurance assessment levels for nursing facilities, 36.6(2) Notice **ARC 3785C** 5/9/18
Settings for home- and community-based services (HCBS) provision to Medicaid members,
amendments to chs 77, 78, 83 Notice **ARC 3784C** 5/9/18
Psychiatric bed tracking system—participation by state mental health institutes and certain
hospitals, 77.3(3) Filed **ARC 3789C** 5/9/18
Tiered-rate reimbursement methodology for supported community living, day habilitation
and adult day care services under intellectual disability waiver, 78.41, 79.1, 83.67(4)“i”
Filed **ARC 3790C**..... 5/9/18
Child care assistance—fee schedule, temporary lapse in need for service, wait list exemption
for homeless families, 170.2, 170.4(2) Filed **ARC 3791C** 5/9/18

INSPECTIONS AND APPEALS DEPARTMENT[481]

Economic fraud control bureau, ch 72 Filed **ARC 3792C** 5/9/18
Medicaid fraud control unit, ch 73 Filed **ARC 3793C** 5/9/18
Economic assistance fraud bureau, rescind ch 74 Notice **ARC 3779C** 5/9/18

IOWA PUBLIC INFORMATION BOARD[497]

Advisory opinion requests; petitions for declaratory orders and rule making, 1.2(1), 3.1,
3.3(3), 5.1 Notice **ARC 3808C** 5/23/18

LABOR SERVICES DIVISION[875]

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"
Occupational safety and health violations—increased penalties, 3.11(1) Filed **ARC 3810C** 5/23/18
Boilers and pressure vessels; water heaters, amend chs 84, 90, 91; rescind ch 95 Notice **ARC 3807C** 5/23/18

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Professional Licensing and Regulation Bureau[193]
COMMERCE DEPARTMENT[181]"umbrella"
Continuing education, 3.1 to 3.3 Filed **ARC 3794C** 5/9/18

LAW ENFORCEMENT ACADEMY[501]

Emergency care provider certification process, 1.1, 3.9(1)“b,” 4.3(2), 9.1(1), 9.3(1)“a,” 10.10
Notice **ARC 3809C** 5/23/18

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Storage of stand-up paddleboards, 16.1, 16.4(3) Filed **ARC 3795C** 5/9/18
Zoning of the Iowa River, Iowa Falls, Hardin County—buoys, speed restrictions, 40.36
Notice **ARC 3782C** 5/9/18
Artificial and natural marshes; decoys; wildlife refuges, 45.5, 45.6, 51.6(3), 52.1 Filed **ARC 3796C** 5/9/18
Waterfowl and coot hunting seasons, 91.1, 91.3, 91.6 Filed **ARC 3797C** 5/9/18
Falconry, 101.1, 101.3 to 101.7 Filed **ARC 3798C** 5/9/18
Bobcat harvest zone, 108.7(2) Filed **ARC 3799C** 5/9/18

NATURAL RESOURCES DEPARTMENT[561]Description of organization, ch 1 Filed **ARC 3800C**..... 5/9/18**NURSING BOARD[655]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Supervision by licensed practical nurses, 6.5(1) Filed **ARC 3801C**..... 5/9/18Nurse licensure compact, rescind ch 16 Filed **ARC 3802C**..... 5/9/18**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Chiropractic physicians—colleges, continuing education, 42.2(2), 42.5(1), 42.6, 44.1, 44.2,
44.3(2) Notice **ARC 3774C**..... 5/9/18**PUBLIC EMPLOYMENT RELATIONS BOARD[621]**Collective bargaining, amendments to chs 2, 4 to 7, 13 Filed **ARC 3803C**..... 5/9/18**REGENTS BOARD[681]**PharmD application fee, 1.7 Notice **ARC 3780C**..... 5/9/18**REVENUE DEPARTMENT[701]**Industrial property tax exemption—correction of cross reference, 80.6(1) Filed **ARC 3804C**..... 5/9/18Forest and fruit-tree reservation exemption—adjustment in deadline for notification of
property owners, 80.9(3) Filed **ARC 3805C**..... 5/9/18**TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]**Purchasing—ICN sole-source agreements, 5.1 Notice **ARC 3781C**..... 5/9/18**TRANSPORTATION DEPARTMENT[761]**Highway bridge program for cities and counties; swapping of surface transportation block
grant funds, amendments to chs 161, 162 Notice **ARC 3777C**..... 5/9/18Reimbursable services and supplies, 174.3(1)"a" Notice **ARC 3776C**..... 5/9/18**UTILITIES DIVISION[199]**

COMMERCE DEPARTMENT[181]"umbrella"

Inmate calling rates, 22.19(8) Amended Notice **ARC 3773C**..... 5/9/18**WORKERS' COMPENSATION DIVISION[876]**

WORKFORCE DEVELOPMENT DEPARTMENT[871]"umbrella"

Payroll tax tables, 8.8 Notice **ARC 3775C**..... 5/9/18**WORKFORCE DEVELOPMENT DEPARTMENT[871]**Claims and benefits, 24.1(21), 24.2(1), 24.37(1)"d" Filed **ARC 3811C**..... 5/23/18Claims for benefits; reemployment services; eligibility assessment; investigation and
recovery unit; administrative penalties; wage verification, amendments to chs 24, 25
Filed **ARC 3812C**..... 5/23/18Benefits—claims, payments, overpayments, 24.2(1), 24.9(1), 25.7(6) Filed **ARC 3813C**..... 5/23/18

ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular, statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

Senator Jim Carlin
43 Arlington Road
Sioux City, Iowa 51106

Senator Mark Chelgren
819 Hutchinson
Ottumwa, Iowa 52501

Senator Mark Costello
37265 Rains Avenue
Imogene, Iowa 51645

Senator Wally Horn
101 Stoney Point Road, SW
Cedar Rapids, Iowa 52404

Senator Pam Jochum
2368 Jackson Street
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Representative Megan Jones
4470 Highway 71
Sioux Rapids, Iowa 50585

Representative Amy Nielsen
168 Lockmoor Circle
North Liberty, Iowa 52317

Representative Rick Olson
3012 East 31st Court
Des Moines, Iowa 50317

Representative Dawn Pettengill
P.O. Box A
Mt. Auburn, Iowa 52313

Representative Guy Vander Linden
1610 Carbonado Road
Oskaloosa, Iowa 52577

Colin Smith
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 18
Des Moines, Iowa 50319
Telephone (515)281-5211

CORRECTIONS DEPARTMENT[201]

Review and update of policies and procedures, amendments to chs 1, 5, 10, 11, 20, 38, 40 to 45, 47, 50, 51 IAB 5/23/18 ARC 3806C	Conference Room 510 Jessie Parker Bldg. 510 E. 12th St. Des Moines, Iowa	June 12, 2018 11 a.m. to 1 p.m.
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HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

911 telephone systems, 10.2, 10.4(2), 10.7, 10.9, 10.13 IAB 5/9/18 ARC 3778C	Cyclones Conference Room, Suite 500 7900 Hickman Rd. Windsor Heights, Iowa	May 29, 2018 11 a.m.
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LABOR SERVICES DIVISION[875]

Boilers and pressure vessels; water heaters, amend chs 84, 90, 91; rescind ch 95 IAB 5/23/18 ARC 3807C	150 Des Moines St. Des Moines, Iowa	June 13, 2018 9 a.m. (If requested)
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NATURAL RESOURCE COMMISSION[571]

Zoning of the Iowa River, Iowa Falls, Hardin County—buoys, speed restrictions, 40.36 IAB 5/9/18 ARC 3782C	Conference Room 4W Wallace State Office Bldg. Des Moines, Iowa	May 29, 2018 1 to 2 p.m.
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PROFESSIONAL LICENSURE DIVISION[645]

Chiropractic physicians—colleges, continuing education, 42.2(2), 42.5(1), 42.6, 44.1, 44.2, 44.3(2) IAB 5/9/18 ARC 3774C	Fifth Floor Board Conference Room 526 Lucas State Office Bldg. Des Moines, Iowa	May 29, 2018 8 to 8:30 a.m.
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TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]

Purchasing—ICN sole-source agreements, 5.1 IAB 5/9/18 ARC 3781C	Executive Director's Conference Room First Floor Grimes State Office Bldg. Des Moines, Iowa	June 4, 2018 11 a.m. to 12 noon
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TRANSPORTATION DEPARTMENT[761]

Highway bridge program for cities and counties; swapping of surface transportation block grant funds, amendments to chs 161, 162 IAB 5/9/18 ARC 3777C	Administration Building First Floor, South Conference Room 800 Lincoln Way Ames, Iowa	May 31, 2018 10 a.m. (If requested)
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TRANSPORTATION DEPARTMENT[761](cont'd)

Reimbursable services and
supplies, 174.3(1)"a"
IAB 5/9/18 **ARC 3776C**

Administration Building
First Floor, South Conference Room
800 Lincoln Way
Ames, Iowa

May 31, 2018
11 a.m.
(If requested)

UTILITIES DIVISION[199]

Inmate calling rates, 22.19(8)
IAB 5/9/18 **ARC 3773C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

July 10, 2018
1 to 3 p.m.

Universal service, 39.2, 39.3,
39.6, 39.7, 39.8(1)
IAB 4/25/18 **ARC 3753C**

Board Hearing Room
1375 E. Court Ave.
Des Moines, Iowa

June 20, 2018
9 a.m. to 12 noon

The following list will be updated as changes occur.

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

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

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

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ARC 3806C

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

Proposing rule making related to policies and procedures and providing an opportunity for public comment

The Corrections Department hereby proposes to amend Chapter 1, “Departmental Organization and Procedures,” Chapter 5, “Public Records and Fair Information Practices,” Chapter 10, “Rule Making,” Chapter 11, “Declaratory Rulings,” Chapter 20, “Institutions Administration,” Chapter 38, “Sex Offender Management and Treatment,” Chapter 40, “Community-Based Corrections Administration,” Chapter 41, “Preconviction Service,” Chapter 42, “Probation Services,” Chapter 43, “Residential Facilities,” Chapter 44, “Work Release,” Chapter 45, “Parole,” Chapter 47, “OWI Programs,” Chapter 50, “Jail Facilities,” and Chapter 51, “Temporary Holding Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 356.36, 903B.10, 904.108 and 905.7.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 356A, 692A, 901, 902, 903, 903B, 904, 905, 907, 908 and 910 and Iowa Code sections 17A.3, 17A.4, 17A.6, 17A.7, 17A.9, 22.11, 80B.11A, 356.36, 356.43, 903B.10 to 904.108, 904.508A, 904.513, 904.909, 905.7, 905.14, 906.9 to 906.11, 906.15, 906.16, 907.3, 908.1, 908.2, 908.8, 908.11 and 910.5.

Purpose and Summary

All of the Department’s rules were reviewed as part of the comprehensive five-year review required under Iowa Code section 17A.7. These proposed amendments are designed to eliminate outdated or redundant rules, update Iowa Code language and eliminate any rules that are inconsistent or incompatible with statutes or other rules. The proposed amendments also reflect changes to conform the rules to current, more efficient, practices.

The proposed amendments to Chapter 1 reflect the Department’s new mission and the revision of the Department’s internal structure.

The proposed amendments to Chapter 5 reflect changes to the process for records requests and treatment of confidential records/information.

The proposed amendments to Chapters 10 and 11 are nonsubstantive corrections of the address of the Iowa Department of Corrections from “420 Watson Powell Jr. Way, Des Moines, Iowa 50309” to the current address “510 East 12th Street, Des Moines, Iowa 50319.”

The proposed amendments to Chapter 20 make nonsubstantive corrections, which include changing the term “offender” to “incarcerated individual” and removing the word “superintendent” because the Department has only wardens with the closing of the mental health institutes. The proposed amendments to Chapter 20 also make changes to outdated security procedures and outdated sanctions for visitors.

The proposed amendments to Chapter 38 reflect changes to the risk assessment instruments used on sex offenders. The proposed amendments to Chapter 38 also make a nonsubstantive change from the designated term “offender” to “client.”

The proposed amendments to Chapter 40 reflect changes to definitions, accreditation for community-based corrections, the carrying of firearms by staff and other nonsubstantive updates.

The proposed amendments to Chapter 41 reflect nonsubstantive changes to pretrial services and to clarifying factors to be used for presentence investigations.

The proposed amendments to Chapter 42 reflect nonsubstantive changes to probation services, including updating old terminology and clarifying language on infectious diseases.

CORRECTIONS DEPARTMENT[201](cont'd)

The proposed amendments to Chapter 43 reflect clarifying changes regarding residential facilities on admission, the federal Prison Rape Elimination Act (PREA), infectious disease, and risk needs assessment instruments.

The proposed amendments to Chapter 44 reflect changes to work release facility requirements, contagious disease, admission, records, personnel health statements, and PREA and remove outdated risk assessment instruments.

The proposed amendments to Chapter 45 reflect changes to effective date/parole agreements, conditions of parole, and violations. These amendments also remove outdated risk assessment instruments and outdated prison language, add clarifying language on infectious disease and change the term “offender” to “client.”

The proposed amendments to Chapter 47 reflect changes to OWI facilities and to PREA, remove references to the American Corrections Association, and change the term “offender” to “client.”

The proposed amendments to Chapter 50 remove inspection of residential facilities, add clarifying language on prisoner mail, and make a nonsubstantive correction to change the name “Citizen’s Aide Office” to “Ombudsman Office.”

The proposed amendment to Chapter 51 removes the inspection of residential facilities and adds clarifying language on detainee mail.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 201—Chapter 7.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on June 12, 2018. Comments should be directed to:

Michael Savala, General Counsel
Department of Corrections
Jessie Parker Building
510 East 12th Street
Des Moines, Iowa 50319
Email: michael.savala@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

CORRECTIONS DEPARTMENT[201](cont'd)

June 12, 2018
11 a.m. to 1 p.m.

Department of Corrections
Jessie Parker Building
Conference Room 510
510 East 12th Street
Des Moines, Iowa 50319

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **201—1.1(904)**, definition of “Deputy director,” as follows:

“*Deputy director*” means the administrator who is appointed by the director and is responsible for an operational division within the department of corrections. The ~~five~~ four operational divisions are administration, ~~eastern operations, western operations, offender services~~ institutional operations, community-based corrections, and prison industries.

ITEM 2. Amend rule 201—1.2(904) as follows:

201—1.2(904) Mission and function. The department of corrections is mandated by Iowa Code chapter 904 and consists of a policy board, a director and ~~five~~ four operational divisions.

The mission of the department of corrections is ~~to protect the public, the employees, and the offenders creating opportunities for safer communities.~~

The department is charged with the operation of the state's penal institutions, judicial district department of corrections programs, prison industries, corrections administration, and contracting with the judicial district departments of correctional services for community correctional services. It is further charged with accreditation and funding of community-based corrections programs, including but not limited to pretrial release, presentence investigation, probation, parole, residential facilities, work release centers and other duties provided for by law.

ITEM 3. Amend subrule **1.3(3)**, office contact information, as follows:

Anamosa State Penitentiary 406 North High Street, Box 10	Iowa Medical and Classification Center Box A – Highway 965 <u>2700 Coral Ridge Avenue</u>
Anamosa, IA 52205 (319)462-3504 (319)462-4962 Fax	Oakdale, IA 52319 <u>Coralville, IA 52241</u> (319)626-2391 (319)626-2141 Fax
Mt. Pleasant Correctional Facility 1200 East Washington	Iowa State Penitentiary 3 John Bennett Drive, Box 316 <u>2111 330th Avenue, P.O. Box 316</u>
Mt. Pleasant, IA 52641	Fort Madison, IA 52627

CORRECTIONS DEPARTMENT[201](cont'd)

(319)385-9511	(319)372-5432
(319)385-8828 Fax	(319)372-6967 Fax
North Central Correctional Facility 313 Lanedale Rockwell City, IA 50579 (712)297-7521 (712)297-7875 Fax	Iowa Correctional Institution for Women 300 Elm Ave. SW, P.O. Box 700 <u>420 Mill Street SW</u> Mitchellville, IA 50169 (515)967-4236 (515)967-5347 Fax
Clarinda Correctional Facility 2000 N. 16th Street, Box 1338 Clarinda, IA 51362 (712)542-5634/5635 (712)542-4844 Fax	First Judicial District, DCS 314 East Sixth Street, P.O. Box 4030 Waterloo, IA 50704-4030 (319)236-9626 (319)291-3947 Fax
Second Judicial District, DCS 510 Fifth Street, P.O. Box 623 <u>509 Main Street, Suite 200</u> Ames, IA 50010- 0623 (515)232-1511 (515)232-9453 Fax	Third Judicial District, DCS 515 Water Street Sioux City, IA 51103 (712)252-0590 (712)252-0634 Fax
Fourth Judicial District, DCS 804 <u>810</u> South Tenth Street Council Bluffs, IA 51501 (712)325-4943 (712)325-0312 Fax	Fifth Judicial District, DCS 604 Locust Street, Equitable Bldg., Suite 317 <u>1000 Washington Street</u> Des Moines, IA 50309 <u>50314</u> (515) 280-4220 <u>242-6611</u> (515) 280-4259 <u>242-6656</u> Fax

ITEM 4. Amend rule 201—1.4(904) as follows:

201—1.4(904) Internet ~~Web site~~ website. The department's Internet home page is located at <http://www.doc.state.ia.us> www.doc.iowa.gov.

ITEM 5. Amend subrule 1.6(8) as follows:

1.6(8) The board shall:

a. Oversee the work of the department as defined in Iowa Code section 904.105 and, for this purpose, ~~the board~~ shall have access at any time to all books, papers, documents and records of the department.

b. No change.

ITEM 6. Amend rule 201—1.7(904) as follows:

201—1.7(904) Director. The governor appoints the director of the department of corrections. The director is responsible for the daily administration of the department. The operations are performed by ~~five~~ four divisions consisting of ~~eastern~~ institutional operations, ~~western operations~~ community-based corrections (CBC), administration, and prison industries, ~~and offender services~~. The deputy directors of these divisions report to the director of the department.

CORRECTIONS DEPARTMENT[201](cont'd)

In addition to the deputy directors, the general counsel/inspector general, the director of media and public relations, the director of research/recidivism reduction, and the ~~director of training and professional development~~ medical services director report to the director of the department.

1.7(1) to 1.7(3) No change.

ITEM 7. Amend rule 201—1.8(904) as follows:

201—1.8(904) Organization of the department.

1.8(1) ~~The two regional deputy directors are~~ director of institutional operations is responsible for the following ~~all institutions and facilities and for liaison with the following judicial district departments of correctional services, which are generally described herein.~~ These descriptions are in no way binding on the director's authority to transfer ~~offenders~~ incarcerated individuals between institutions.

a. ~~Regional deputy~~ Deputy director for eastern of institutional operations:

(1) The Iowa state penitentiary, Fort Madison.

~~1. John Bennett facility, Fort Madison.~~

~~2. Prison farms, Fort Madison.~~

~~3. Clinical care unit, which is a special needs unit.~~

(2) The Anamosa state penitentiary, Anamosa.

~~1. Luster Heights camp, Harpers Ferry, which is a conservation commission camp administered by the Anamosa state penitentiary at Anamosa.~~

~~2. Reserved.~~

(3) The Iowa medical and classification center, ~~Oakdale~~ Coralville.

(4) Mount Pleasant correctional facility, Mount Pleasant.

~~The first judicial district department of correctional services~~ The Iowa correctional institution for women, Mitchellville.

~~The sixth judicial district department of correctional services~~ The Clarinda correctional facility, Clarinda.

~~The seventh judicial district department of correctional services~~ The north central correctional facility, Rockwell City.

~~The eighth judicial district department of correctional services~~ The Newton correctional facility, Newton.

~~(9) The correctional release center, Newton.~~

b. ~~Regional deputy director for western operations:~~

~~(1) The Iowa correctional institution for women at Mitchellville.~~

~~(2) The Clarinda correctional facility, Clarinda.~~

~~(3) The north central correctional facility, Rockwell City.~~

~~(4) The Newton correctional facility, Newton.~~

~~(5) The correctional release center, Newton.~~

~~(6) The Fort Dodge correctional facility, Fort Dodge.~~

~~(7) The second judicial district department of correctional services.~~

~~(8) The third judicial district department of correctional services.~~

~~(9) The fourth judicial district department of correctional services.~~

~~(10) The fifth judicial district department of correctional services.~~

1.8(2) ~~The two regional deputy directors:~~ The deputy director of CBC:

a. ~~Shall be responsible for the following service areas:~~ Is responsible for supervising and coordinating of Code of Iowa requirements as they apply to the judicial district department of correctional services for all eight judicial districts to include:

~~(1) Contracting with the eight judicial district departments of correctional services for work release centers.~~

~~(2) Contracting with the eight judicial district departments of correctional services for parole services.~~

~~(3) Providing coordinated placement of work releasees and parolees with the district departments upon order of the Iowa board of parole.~~

CORRECTIONS DEPARTMENT[201](cont'd)

- (1) The first judicial district department of correctional services.
- (2) The second judicial district department of correctional services.
- (3) The third judicial district department of correctional services.
- (4) The fourth judicial district department of correctional services.
- (5) The fifth judicial district department of correctional services.
- (6) The sixth judicial district department of correctional services.
- (7) The seventh judicial district department of correctional services.
- (8) The eighth judicial district department of correctional services.

~~b.~~ Is responsible for providing assistance and support to the judicial district departments of correctional services and for periodic review and accreditation of these programs. The following services shall be provided in addition to parole and work release:

- (1) to (7) No change.

~~c.~~ Is responsible for programming for and treatment of incarcerated individuals to include the following:

- (1) Interstate compact administration.
- (2) Substance abuse treatment services.
- (3) Cognitive learning.
- (4) Batterers' education programs.
- (5) Sex offender treatment.
- (6) Preemployment programs.

1.8(3) ~~The deputy director~~ fiscal manager for the division of administration shall be responsible for the following:

- ~~a. to h.~~ No change.

1.8(4) No change.

1.8(5) ~~The deputy director for offender services shall be responsible for the following services within the department of corrections and for providing assistance to the judicial district departments of correctional services:~~ The director of research/recidivism reduction shall be responsible for the following:

- ~~a.~~ Offender classification. Learning center.
- ~~b.~~ Interstate compact administration. Research department.
- ~~c.~~ Offender records.
- ~~d.~~ Offender transfers.
- ~~e.~~ Program development.
- ~~f.~~ Substance abuse treatment services.
- ~~g.~~ Cognitive learning.
- ~~h.~~ Batterers' education programs.
- ~~i.~~ Sex offender treatment.
- ~~j.~~ Offender education programs.
- ~~k.~~ Offender preemployment programs.

1.8(6) The general counsel/inspector general shall be responsible for the following:

- ~~a.~~ Legal services.
- ~~b.~~ Coordination of court orders.
- ~~c.~~ Investigations.
- ~~d.~~ EEO/AA.
- ~~e.~~ Administrative law judges.
- ~~f.~~ Jail inspections.
- ~~g.~~ Policy Legislative program.
- ~~h.~~ Administrative rules.

1.8(7) The director of media and public relations shall be responsible for the following:

- ~~a. and b.~~ No change.
- ~~c.~~ Supervising the office of victims and restorative justice.

CORRECTIONS DEPARTMENT[201](cont'd)

1.8(8) ~~The director of training and professional development~~ medical services director shall be responsible for the following:

- a. ~~Comprehensive oversight of the development, implementation and review of the department's agencywide staff development training.~~ Institutional medical services.
- b. ~~Training policies/plans including implementation, curriculum approval, program/policy audit, and evaluation.~~ Central pharmacy.

ITEM 8. Adopt the following **new** definitions in rule **201—5.1(17A,22)**:

"Custodian" means an agency or a person lawfully delegated authority by the agency to act for the agency in implementing Iowa Code chapter 22.

"Personally identifiable information" means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

"Record" means the whole or a part of a public record, as defined in Iowa Code section 22.1, that is owned by or in the physical possession of this agency.

"Record system" means any group of records, under the control of the agency, from which a record may be retrieved by a personal identifier, such as the name of an individual, number, symbol, or other unique retriever assigned to an individual.

ITEM 9. Amend subrule 5.3(1) as follows:

5.3(1) *Location of record.* A request for access to a record should be directed to the office where the record is kept:

- a. Records of current inmates are maintained at the inmates' place of confinement. Such requests should be directed to the Records Office at:

~~Iowa State Men's Reformatory~~ Anamosa
~~State Penitentiary~~
~~Box B 406 North High Street~~
 Anamosa, Iowa 52205
 (319)462-3504

Mount Pleasant Correctional Facility
~~Medium Security Unit~~ 1200 East Washington
 Mount Pleasant, Iowa 52641
 (319)385-9511

Clarinda Correctional Facility
~~Box 1338 2000 N. 16th Street~~
 Clarinda, Iowa 51632
 (712)542-5634

~~Correctional Release Center~~ Newton Correctional
~~Facility~~
307 S. 60th Avenue W, Box 218
 Newton, Iowa 50208
 (515)792-7552

Iowa State Penitentiary
~~31 Avenue G 2111 330th Avenue~~
 P.O. Box 316
 Fort Madison, Iowa 52627
 (319)372-5432

Iowa Medical and Classification Center
~~Box A 2700 Coral Ridge Avenue~~
~~Oakdale, Iowa 52319~~ Coralville, IA 52241
 (319)626-2391

Iowa Correctional Institution for Women
~~300 Elm Avenue, S.W.~~
~~P.O. Box 700 420 Mill Street SW~~
 Mitchellville, Iowa 50169
 (515)967-4236

North Central Correctional Facility
~~P.O. Box 313, 313 Lanedale~~
 Rockwell City, Iowa 50579
 (712)297-7521

Fort Dodge Correctional Facility
1550 L Street
Fort Dodge, IA 50501
(515)574-4700

If the requester does not know the current place of confinement, the request for a record should be directed to the Iowa Medical and Classification Center as previously listed.

- b. Records of former ~~inmates~~ incarcerated individuals and other individuals served by the department's division of institutions should be directed to records office at the Iowa Medical and Classification Center as previously listed.

CORRECTIONS DEPARTMENT[201](cont'd)

c. Requests for other records, including administration or operation, should be directed to the Director, Department of Corrections, ~~Capitol Annex, East 12th and Des Moines Streets~~ Jessie Parker Building, 510 East 12th Street, Des Moines, Iowa 50319, (515)281-4814 (515)725-5701.

ITEM 10. Adopt the following **new** subrules 5.3(5) and 5.3(6):

5.3(5) *Security of record.* No person may, without permission from the custodian, search or remove any record from agency files. The examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

5.3(6) *Copying.* A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency's office where an open record is kept, the custodian shall permit examination of the record in that office and shall arrange to have copies promptly made elsewhere.

ITEM 11. Amend subrule 5.3(7) as follows:

5.3(7) *Fees.*

a. *When charged.* The agency may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. *Copying and postage costs.* Price schedules for published materials and for photocopies of records supplied by the agency shall be prominently posted in agency offices. Copies of records may be made by or for members of the public on agency photocopy machines or from electronic storage systems at cost as determined and posted in agency offices by the custodian. When the mailing of copies of records is requested, the actual cost of such mailing may also be charged to the requester.

c. No change.

d. *Advance deposits.*

(1) When the estimated total fee chargeable under this subrule exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

ITEM 12. Adopt the following **new** rule 201—5.4(17A,22):

201—5.4(17A,22) Access to confidential records. Pursuant to Iowa Code section 22.7 or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in Iowa Code section 904.602.

5.4(1) *Proof of identity.* A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

5.4(2) *Requests.* The custodian may require a request to examine and copy a confidential record to be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

5.4(3) *Notice to subject of record and opportunity to obtain injunction.* After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa

CORRECTIONS DEPARTMENT[201](cont'd)

Code section 22.8, and indicate to the subject of the record the specific period of time during which disclosure will be delayed for that purpose.

5.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

- a. The name and title or position of the custodian responsible for the denial; and
- b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

5.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person’s examination and copying of the record.

ITEM 13. Amend rule 201—5.14(17A,22) as follows:

201—5.14(17A,22) Personally identifiable information.

5.14(1) No change.

5.14(2) The type of record. Disclosures are in accordance with the following code:

CODE	MEANING
O	The records are open for public inspection.
C	The records are confidential and are not open to public inspection.
D	The department has discretion whether to allow public inspection of the record when the record contains information that is partially open or partially confidential.

5.14(3) The records systems maintained by the department are:

a. *Director’s office*

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Bd. Mtg. Minutes	O, D	22, 904	Hard Copy Automated	Full
2. Inmate <u>Incarcerated Individual</u> Corres.	O, C, D	904	Hard Copy	N/A
3. Business Corres.	O, C	22, 904	Hard Copy Automated	Partial
4. General Corres.	O	904	Hard Copy Automated	Partial
5. Investigations	C	904	Hard Copy	N/A
6. Incident Reports	C	904	Hard Copy	N/A
7. Press Releases	O	904	Hard Copy <u>Automated</u>	N/A

b. *Institutions*

CORRECTIONS DEPARTMENT[201](cont'd)

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Inmate Incarcerated Individual Records				
a. Demographic Data/Action Section	O, C, D	904	Hard Copy Automated	Partial Full
b. Admission Documents	C, D	904	Hard Copy Automated	N/A
c. Classification and Release Documents	O, C, D	904	Hard Copy Automated	Partial Full
d. Time Computation	O, C, D	904	Hard Copy Automated	Partial Full
e. Clinical and Medical	O, C, D	904	Hard Copy Automated	Partial Full
f. Correspondence and Visiting	O, C	904	Hard Copy Automated	Partial Full
g. Legal Documents	O, C	904	Hard Copy Automated	Partial Full
2. Inmate Incarcerated Individual Accounts	O, C, D	904	Hard Copy Automated	Partial Full
3. Security Records				
a. Disciplinary Records	O, C	904	Hard Copy Automated	Partial Full
b. Segregation Logs	C	904	Hard Copy	N/A
c. Housing Unit Logs	C	904	Hard Copy	N/A
d. Incident Reports	C	904	Hard Copy Automated	N/A
4. Contracts and Agreements	O	312, 313 315, 318 904	Hard Copy	N/A
5. Volunteers		D 904	Hard Copy	N/A
6. Staff Training	O, C	904	Hard Copy Automated	Partial Full
7. Inmate Incarcerated Individual Movement	O	904	Hard Copy Automated	N/A
8. Meeting Minutes		D 22, 904	Hard Copy Automated	Full
9. Lawsuits and Attorney Corres.	C	22, 904	Hard Copy	N/A
10. Library Records		D 904	Hard Copy	N/A
11. Education and Vocation Records	C	904	Hard Copy Automated	Partial Full
12. Press Releases	O	904	Hard Copy Automated	N/A
13. Inmate Incarcerated Individual Grievances	C	904	Hard Copy Automated	Partial Full
14. Miscellaneous	O	904	Hard Copy Automated	Partial Full

c. ~~Community~~ Community-Based Corrections - Interstate Compact

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Description of Record	Type	Legal Authority	Storage	Comparison
Interstate Compact			Hard Automated	
I. Parole/Probation Supervision		904.602		
A. Investigation Requests	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
B. Acceptance	C, D	904.602	Hard Automated	Partial <u>Full</u>
C. Rejection	C, D	904.602	Hard Automated	Partial <u>Full</u>
D. Progress	C, D	904.602	Hard	N/A
E. Violations	C, D	904.602	Hard Automated	Partial <u>Full</u>
F. Discharge Request	C, D	904.602	Hard	N/A
G. Other Closures	C, D	904.602	Hard Automated	Partial <u>Full</u>
Presentence Investigation Request				
H. Presentence Investigation	C	904.602	Hard	N/A
Absconder Tracking				
I. Parole Violators	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
J. Miscellaneous Reports and Correspondence	O, C, D	904.602	Hard	N/A
II. Parole/Probation/Pretrial/Presentence/Residential				
A. Classification	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
B. Status Reports	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
C. Charge/Disposition	O, C, D	904.602	Hard Automated	Partial <u>Full</u>
III. Work Release				
A. Progress Reports	C, D	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
B. Violation Reports	C, D	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
C. Discharge Reports	C, D	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
D. Disciplinary Records	<u>O</u> , C	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
E. Time Computation	O, C, D	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
F. Legal Documents	O, C	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
G. Incident Reports	C	904.602	Hard <u>Auto- mated</u>	N/A <u>Full</u>
H. Demographic Data/Action Section	O, C, D	904.602	Hard Automated	Partial <u>Full</u>

CORRECTIONS DEPARTMENT[201](cont'd)

Description of Record	Type	Legal Authority	Storage	Comparison
I. Admission Documents	C, D	904.602	Hard Automated	N/A
J. Classification and Release Documents	O, C, D	904.602	Hard	<u>Partial Full</u>
K. Clinical and Medical	O, C, D	904.602	Hard	N/A
L. Correspondence and Visiting	O, C	904.602	Hard	<u>Partial Full</u>
IV. Client Complaints	C	904.602	Hard	N/A
V. Jail Inspections	O, C, D	904.602	Hard <u>Auto-mated</u>	<u>N/A Full</u>

d. Iowa state industries

Description of Record	Type of Record	Legal Authority	Storage	Comparison
1. Customer Lists	C	22, 904	Hard Copy Automated	<u>Partial Full</u>
2. Formulas, Mixture and Special Designs	C	22, 904	Hard Copy	N/A
3. Unaudited Monthly Balance Sheets and Income Statements	C	22, 904	Hard Copy Automated	<u>Partial Full</u>
4. Cost Calculations for Sealed Bids	C	22, 904	Hard Copy	<u>N/A Full</u>
5. Yearly Audits	O	22, 904	Hard Copy	<u>N/A Full</u>

5.14(4) and 5.14(5) No change.

ITEM 14. Amend rule 201—10.3(17A) as follows:

201—10.3(17A) Copies of proposed rules. A trade or occupational association, which has registered its name and address with the department of corrections, may receive, by mail, copies of proposed rules. Registration of the association's name and address with the department is accomplished by written notification to the Director of Corrections, Department of Corrections, ~~420 Watson Powell Jr. Way, Des Moines, Iowa 50309~~ 510 East 12th Street, Des Moines, Iowa 50319. In the written notification, the association must designate the type of proposed rules and the number of copies of each rule it wishes to receive. A charge will be assessed pursuant to ~~IAC~~ 201—subrule 5.3(7).

This rule does not prevent an association which has registered with the department in accordance with this rule from changing its designation of types of proposed rules or number of copies of proposed rules which the association desires to receive. If an association makes such change designation, it must do so by written notification to the director of corrections.

This rule is intended to implement Iowa Code sections 17A.4 and 22.11.

ITEM 15. Amend rule 201—10.8(17A) as follows:

201—10.8(17A) Petition for rule making. A petition for rule making shall be filed in the director's office, Department of Corrections, ~~420 Watson Powell Jr. Way, Des Moines, Iowa 50309~~ 510 East 12th Street, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested, or may be delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition may be either typewritten or legibly printed in ink and must substantially conform to the following form:

CORRECTIONS DEPARTMENT[201](cont'd)

DEPARTMENT OF CORRECTIONS
420 WATSON POWELL JR. WAY 510 EAST 12TH STREET
DES MOINES, IOWA 50309 50319

Petition by _____ (Name) to (Amend, Adopt, or Repeal) Rules Relating to (state subject matter)	}	PETITION FOR RULE MAKING
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(Petition must state in separate numbered paragraphs)

1. Petitioner’s name, address and telephone number.
2. The nature of petitioner’s interest in the matter.
3. The text or substance of any requested rule adoption, amendment or repeal, including the text and citation for any current rule in effect.
4. The reasons for seeking the requested action, including any statute, rule, data, evidence or arguments which are relevant to the request. Copies of any statute, rule, evidence, etc., shall be attached to the petition.

(Petitioner’s Signature)

10.8(1) and 10.8(2) No change.

ITEM 16. Amend rule 201—11.2(17A) as follows:

201—11.2(17A) Petition for declaratory rulings. A petition for a declaratory ruling shall be filed in the director’s office, Department of Corrections, ~~420 Watson Powell Jr. Way, Des Moines, Iowa 50309~~ 510 East 12th Street, Des Moines, Iowa 50319. The petition shall either be mailed certified, return receipt requested, or delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition shall be typewritten and must substantially conform to the following:

DEPARTMENT OF CORRECTIONS
~~420 WATSON POWELL JR. WAY 510 EAST 12TH STREET~~
DES MOINES, IOWA ~~50309~~ 50319

Petition by _____ (Name) For a Declaratory Ruling on (state statute, rule citation to be ruled on)	}	PETITION FOR DECLARATORY RULING
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(Petition must state in separately numbered paragraphs)

1. Petitioner’s name, address and telephone number.
2. A clear, concise and complete statement of all relevant facts on which the ruling is requested.
3. A clear and concise statement of the controversy or uncertainty.
4. Reference to the statutory authority or rules in question, along with attached copies.
5. The reasons for prompting the petition and a full disclosure of petitioner’s interest.
6. Whether petitioner is currently a party to a contested case, rule making or judicial proceeding involving the controversy or uncertainty.
7. The names and addresses, when known, of other persons who may be affected by the declaratory ruling.

(Petitioner’s Signature)

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 17. Amend rule 201—20.2(904) as follows:

201—20.2(904) Title II definitions.

“*Class I Disciplinary Report*” means the same as a major report and is defined in department policy ~~IO-RD-01~~ IO-RD-03.

“*Class II Disciplinary Report*” means the same as a minor report and is defined in department policy ~~IO-RD-01~~ IO-RD-02.

“*Contraband*” means weapons; alcohol; drugs; money; obscene materials; or materials advocating disruption of or injury to ~~offenders~~ incarcerated individuals, employees, programs, or physical facilities. Contraband shall also include anything which is illegal to possess under federal or state law; anything which is against institutional regulations; drugs or alcohol or materials which are used in the production or use of drugs or alcohol or weapons, explosives, or potential weapons and explosives; and altered authorized property. The term also includes possession or use of any prohibited communication device.

“*Department*” means the Iowa department of corrections.

“*Furlough*” means any temporary release from custody as granted in accordance with Iowa Code section 904.108(2).

“*Furlough residence*” means any private dwelling, apartment, house, trailer court, hotel, motel or community dwelling place.

“*Immediate family*” means an ~~offender’s~~ incarcerated individual’s spouse, mother, father, sister, brother, child, grandparent, established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the ~~offender~~ incarcerated individual were raised as cohabiting siblings.

For the purpose of visitation, all the above will be included as immediate family provided a positive relationship exists. Immediate family members may be subject to criminal background investigation.

“*Law enforcement checks*” means prescheduled, in person, check-ins at designated law enforcement agencies such as police departments, sheriff’s offices and highway patrol offices.

“*Medical practitioner*” means medical doctor, osteopathic physician or ~~physician’s~~ physician assistant employed by the department.

“*Obscene material*” means the same as that described in ~~20.6(4)~~ 20.6(5).

“*Performance evaluation*” means evaluation of work and program participation as well as other areas of behavior.

“*Plan of payment*” means the method by which the ~~offender~~ incarcerated individual is to make restitution. The plan may include legal financial obligations. The plan is to reflect the ~~offender’s~~ incarcerated individual’s present circumstances, such as income, physical and mental health, education, employment and family circumstances.

“*Plan of restitution*” means a plan stating the amount of restitution as set by the court.

“*Responsible person*” means an individual on the ~~offender’s~~ incarcerated individual’s visiting list of legal age and, in the judgment of the staff, is a person of accountability, is able to think and act rationally, and is willing to facilitate the ~~offender’s~~ incarcerated individual’s successful completion of furloughs within the furlough rules and facilitate the return of the ~~offender~~ incarcerated individual to the institution. A responsible person shall further mean an individual not now under indictment, sentence or conviction of an indictable public offense. Ex-felons will not be permitted to act as responsible persons for furlough until the demonstration of two years’ successful adjustment in the community after release from any supervision.

This rule is intended to implement Iowa Code section 904.108(1) “k.”

ITEM 18. Amend rule 201—20.3(904) as follows:

201—20.3(904) Visits to offenders incarcerated individuals. Visiting is a privilege which allows ~~offenders~~ incarcerated individuals to maintain and strengthen relationships with family members and friends. Though visits are encouraged, institutions’ space, schedules, personnel constraints, treatment considerations, or other safety and security issues of the institutions and their operations may result

CORRECTIONS DEPARTMENT[201](cont'd)

in limiting the number and length of visits. Visitation is additionally governed by the provisions of department of corrections policy OP-MTV-04.

20.3(1) Definitions.

“*Application*” means a written application identifying the visitor and the visitor’s relationship to the offender incarcerated individual.

“*Background investigation*” means the process by which central visiting authority staff verify the accuracy of a visitor’s application for any reason.

“*Central visiting authority*” or “*CVA*” means the department office that conducts the visitor application approval process.

“*Extended family*” means the offender’s incarcerated individual’s aunts, uncles, nieces, nephews, cousins, great-grandparents, great-grandchildren, and in-laws.

“*Group*” means a family unit (e.g., aunt, uncle and minor nieces and nephews) residing at the same address.

“*Immediate family*” means an offender’s incarcerated individual’s spouse, mother, father, sister, brother, child, grandparent, grandchild (when minors become adults, they will be required to complete the formal visiting application process), established legal guardian or other who acted in place of parents, and step- or half-relation if the step- or half-relation and the offender incarcerated individual were raised as cohabiting siblings.

“*Offender Incarcerated individual*” means a person who has been committed to the custody of the department of corrections or to a judicial district department of correctional services. “*Offender*” also includes a “*violatee*” as that term is defined in 20.18(2).

“*Personal search*” means a pat-down search on top of the visitor’s clothes or the nonintrusive use of an electronic search process.

“*Visiting list*” means the screened list of approved visitors with authorized visiting privileges at all department of corrections institutions.

20.3(2) Schedule. Each department of corrections institution will structure a visiting schedule allowing visitation for a minimum of four days per week. Each institution’s visiting room will be open a minimum of four hours on each authorized day of visiting. The ~~warden/superintendent~~ warden will designate the time for visiting on certain days/holidays and advise the offenders incarcerated individuals. The offender incarcerated individual is responsible for informing the visitor of the days and hours for visitation.

20.3(3) Authorized visitors.

a. The central visiting authority will establish an approved visiting list for each offender incarcerated individual. This visiting list remains valid when the offender incarcerated individual is transferred to another institution.

b. To meet facility design limitations and security considerations, the visiting list shall be limited to the following individuals:

(1) Immediate family members.

(2) A total of ~~four~~ six other individuals or groups who are the offender’s incarcerated individual’s friends or extended family members.

(3) Minor children under the immediate supervision of their parent or legal guardian. The minor children of an offender incarcerated individual shall also be allowed to visit under the immediate supervision of any adult on the offender’s incarcerated individual’s approved visiting list.

c. Limitation. An individual on the approved visiting list of one offender incarcerated individual shall not be on the approved visiting list of another offender incarcerated individual, regardless of the location(s) of the offenders incarcerated individuals. An exception may only be granted pursuant to 20.3(5) “b.”

20.3(4) Nonauthorized visitors.

a. The following persons shall not be authorized to visit:

(1) Individuals whose behavior represents a control problem or is counterproductive to stable offender behavior of an incarcerated individual. This determination may be reflected in the background

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investigation report which shows that the individual has a record of carrying concealed weapons, use of a controlled substance, previous violation of institutional rules, or similar behavior.

(2) Individuals under criminal indictment.

(3) Individuals on probation, work release, or parole.

(4) Individuals found to be involved with or convicted of incidents of aiding an escape or introducing contraband in any detention or supervised correctional setting.

(5) Individuals who intentionally give false information on the visitor's application form.

(6) Individuals convicted of a felony.

(7) Individuals who may compromise the order and security of the institution.

b. A person working in any institution as a volunteer shall not be on an offender's incarcerated individual's visiting list except with the permission of the ~~warden/superintendent~~ warden or designee.

c. Neither a victim of a sex offense, whether registered or not, nor the victim's family members will be approved for the visiting list of the perpetrator in the victim's case until department staff consult with the victim and restorative justice administrator of the department. Visitation requests from victims shall be considered only when the offender incarcerated individual has successfully completed all recommended treatment programs of the department or board of parole. If the victim's or victim's family member's visitation request is denied, the victim or victim's family member may file an appeal pursuant to 20.3(6) "d."

d. A sex offender whose victim was a minor shall not be permitted to have any children on the offender's incarcerated individual's visiting list until the offender incarcerated individual has completed the sex offender treatment program. After the offender's incarcerated individual's completion of the treatment program, a minor victim of the offender incarcerated individual may be added to the offender's incarcerated individual's visiting list only with the approval of the institutional treatment team and the victim and restorative justice administrator of the department. Other children may be added to the offender's incarcerated individual's visiting list after the offender's incarcerated individual's completion of the treatment program and approval of the institutional treatment team.

e. An application from a victim of a crime other than a sex offense who seeks to be added to the visiting list of the perpetrator in the victim's case shall be reviewed with the victim and restorative justice administrator of the department prior to any approval or denial.

20.3(5) Exceptions. The following exceptions may be implemented by the central visiting authority upon the approval of the ~~warden/superintendent~~ warden or designee.

a. The offender's incarcerated individual's spouse, child, mother or father who is currently under department supervision or on probation, work release, or parole may be approved to visit the offender incarcerated individual by the ~~warden/superintendent~~ warden or designee after consultation with the supervising parole/probation officer. The ~~warden/superintendent~~ warden or designee may authorize either contact or noncontact visiting.

b. The ~~warden/superintendent~~ warden or designee may grant an exception to the limitation in 20.3(3) "c" when the person is an immediate family member of more than one offender incarcerated individual and seeks to be added to the visiting lists of only those offenders incarcerated individuals.

c. A former or current department employee or volunteer who is a member of an offender's incarcerated individual's immediate family may be approved to visit the offender incarcerated individual by the ~~warden/superintendent~~ warden or designee.

d. A former department employee or volunteer who is not an immediate family member of an offender incarcerated individual may be allowed to visit six months after leaving employment or ceasing volunteer service if the former employee or volunteer passes the normal background investigation, there are no security issues arising from the person's prior employment or volunteer service, and the CVA receives approval from the ~~warden/superintendent~~ warden or designee.

e. An offender incarcerated individual who is an immediate family member discharged from prison without correctional supervision must wait six months before contact visits may be arranged. Noncontact visiting may be authorized only for the spouse, child, mother or father of an offender incarcerated individual.

20.3(6) Application process.

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a. Visitor application forms shall be provided to offenders incarcerated individuals at each institution. Offenders Incarcerated individuals are responsible for mailing visitor application forms to prospective visitors, who may then apply to be added to the offender's incarcerated individual's visiting list. The completed visitor application form must be sent for processing to the central visiting authority at the following address: Mt. Pleasant Correctional Facility, Attn: Central Records, 1200 E. Washington, Mt. Pleasant, Iowa 52641.

b. All adults, including the offender's incarcerated individual's own children if they are 18 years of age or older, must complete the visitor application process in order to be considered for inclusion on an offender's incarcerated individual's visiting list.

c. Written notification. Written notification of denial of a visitor application will be given to both the offender incarcerated individual and the applicant within 30 days from the CVA's receipt of the application. Notification of approval of a visitor application will be given only to the offender incarcerated individual. The offender incarcerated individual is responsible for notifying the approved visitor.

d. Appeals. When an application is denied, the applicant and the offender incarcerated individual shall be apprised of the reasons for denial.

(1) Applicants may appeal to the warden/superintendent warden or designee in writing. An appeal by an applicant who is the victim of a sex offense, or who is the victim's family member, and is seeking to visit the perpetrator of the crime shall be reviewed in consultation with the department sex offender treatment director or the institution's treatment director for the moderate intensity family violence prevention program.

(2) The decision of the warden/superintendent warden or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

20.3(7) Removal from visiting list. If an offender incarcerated individual wishes to have a visitor removed from the offender's incarcerated individual's visiting list, the offender incarcerated individual shall complete the Removal of Visitor form contained in department policy OP-MTV-04 and send it to the central visiting authority. Upon receipt of the removal request, the central visiting authority shall respond to the request within seven business days and send a copy of the removal form to the offender incarcerated individual. Once a visitor has been removed from a visiting list, six months must elapse before reapplication by the removed visitor.

20.3(8) and 20.3(9) No change.

20.3(10) Special visitors.

a. *Law enforcement.* Division of criminal investigation agents, Federal Bureau of Investigation agents, and law enforcement officials shall present proof of identity upon entrance to the institution.

b. *Attorneys.* Attorneys must complete an initial visitor application form to visit an offender incarcerated individual; however, this initial application shall apply to multiple visiting lists. After initial approval is established, attorneys must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional offenders incarcerated individuals. Background checks are not required, and attorneys shall not be counted as a friend on an offender's incarcerated individual's visiting list as set forth in 20.3(3) "b."

Attorneys shall present proof of identity upon entrance to the institution. The offender incarcerated individual must express a desire to visit with an attorney before the attorney will be admitted. Attorney visits shall be during normal visiting hours unless a special visit has been requested by the offender incarcerated individual and approved by the warden/superintendent warden or designee prior to the visit.

An attorney testing positive by an electronic detection device may be required to visit without direct contact.

c. *Ministers.* Ministers must complete an initial visitor application form to visit an offender incarcerated individual; however, this initial application shall apply to multiple visiting lists. After initial approval is established, ministers must contact the central visiting authority at (319)385-9511 to be added to the visiting lists of additional offenders incarcerated individuals. Background checks are

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required. Ministers shall not be counted as a friend on an offender's incarcerated individual's visiting list as set forth in 20.3(3) "b."

Ministers shall present proof of identity upon entrance to the institution. The offender incarcerated individual must express a desire to visit with a minister before the minister will be admitted. Minister visits shall be during normal visiting hours unless a special visit has been requested by the offender incarcerated individual and approved by the warden/superintendent warden or designee prior to the visit.

A minister testing positive by an electronic detection device may be required to visit without direct contact.

20.3(11) Termination of visiting privileges. Individuals may have visiting privileges modified or terminated when:

a. The offender incarcerated individual or visitor engages in behavior that may in any way be disruptive to the order and control of the institution.

b. The visitor or offender incarcerated individual fails to follow the established rules and procedures of the institution.

c. The visitor and offender incarcerated individual directly exchange or attempt to exchange any object or article. This restriction does not apply to purchases from the canteen or visiting room vending machines that are consumed during the visit.

d. The visitor tests positive for drugs or explosives as determined by an authorized electronic detection device calibrated and operated for testing for the presence of drugs or other contraband.

e. The visit or future visiting is detrimental to the health or welfare of the offender incarcerated individual or visitor.

f. The visitor does not supervise the visitor's children to prevent them from interfering with or disrupting other visits.

Offenders incarcerated individuals may request reconsideration of denied visitors six months after resolution of the reason for denial or when approved by the warden/superintendent warden or designee or regional institutional deputy director.

20.3(12) Noncontact visiting. The warden/superintendent warden or designee may allow noncontact visits when the order or security of the institution may be threatened or when disciplinary rules or procedures have been violated. Noncontact visiting hours will be provided on a scheduled basis. The hours and days will be posted by the warden/superintendent warden or designee, and notice will be posted at least one week prior to any change. Visitors on the noncontact list at the time of a schedule change will be notified of the schedule change by regular mail sent to the last-known address.

20.3(13) No change.

20.3(14) Security procedures. Visitors may be requested to submit to a personal search (pat down) or an electronic search for weapons or contraband. "Personal search" means a pat-down search on top of the visitor's clothes or the nonintrusive use of an electronic search process. If the initial electronic test confirms the presence of a controlled substance, the visitor will be given a second confirmation test. When the electronic detection device alarm is activated, the visitor shall produce the item that set off the alarm or a personal search may be made to find the item. If the visitor refuses to submit to a search, access to visiting shall be denied and entrance shall be denied. All searches shall be conducted in a courteous manner to respect the visitor's privacy. Minors are subject to personal and electronic searches. When a visitor accompanied by a minor refuses to leave the minor with a staff person and does not want the minor present during the search, the visit will be denied. When a minor is searched, the supervising adult shall be present in the room at all times.

a. The warden/superintendent warden or designee will maintain records of all searches which produce positive results, including the name of each person subjected to a search, the names of the persons conducting and in attendance at the search, and the time, date, and place of the search. The written record shall reflect the reason for the search and the results of the search. The written authorization for the search shall be included in the record. Testing records will be maintained by the institution for one year and then expunged. Records of positive tests will be maintained for five years and then expunged. All testing records are confidential and will be released only upon the order of a court of proper jurisdiction.

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b. When a visitor tests positive by an electronic search device, the visitor may appeal to the ~~warden/superintendent~~ warden or designee in writing. The decision of the ~~warden/superintendent~~ warden or designee may be appealed to the director of the department of corrections or the director's designee. The decision of the director or the director's designee constitutes final agency action.

c. No change.

~~*d.* Facilities will establish procedures for personnel selection and training of search personnel. Operators will be trained in accordance with manufacturer's standards, which require 16 hours of initial certification and 4 hours of annual training thereafter. Each facility will have at least two certified trainers of trainers.~~

20.3(15) Sanctions. Visitors testing positive or refusing to be tested by an electronic detection device will be restricted.

a. Testing positive. The following restrictions will apply to visitors testing positive:

(1) ~~First occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 2 visiting days. Future visits may be restricted to noncontact status.

(2) ~~Second occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 7 visiting days. Future visits may be restricted to noncontact status.

(3) ~~Third occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 15 visiting days. Future visits may be restricted to noncontact status.

(4) ~~Fourth occurrence.~~ Visiting privileges will be suspended from the date and time of the test for the next 30 visiting days. In addition, the visitor will be placed on noncontact visiting status for 180 days from the date of the first eligible visit. If the visitor tests positive from this date forward, visiting privileges may be permanently restricted to noncontact status.

~~Upon request by the visitor, the warden/superintendent or designee may allow visits in noncontact status for the first, second, and third occurrence pending the receipt of laboratory reports for any visitor testing positive by an electronic detection device.~~

~~*b. Refusing to be tested.* Refusal to submit to a drug test by an electronic testing device will result in suspension of visiting privileges for 15 calendar days from the time of refusal.~~

~~*c. Written notification.* Written notice regarding visiting status or facility access will be presented or mailed within 5 working days to any individual (nonoffenders) who tests positive or who refuses consent to search. Such notice will include the duration of any restriction and procedures for reconsideration or reinstatement.~~

20.3(16) 20.3(15) Money orders, cashier's checks, and electronic funds transfers. Money orders and cashier's checks for deposit in the ~~offender's~~ incarcerated individual's account must be made payable to the Iowa Department of Corrections ~~Offender~~ Incarcerated Individual Fiduciary Account (IDOC ~~OFA~~ IIFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the ~~offender's~~ incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. Personal checks and cash will not be accepted. An ~~offender's~~ incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

20.3(17) 20.3(16) Limits. Each institution, according to its facilities and conditions, shall limit the number of visitors an ~~offender~~ incarcerated individual may have at any one time and the length of visits.

20.3(18) 20.3(17) Segregation status. ~~Offenders~~ Incarcerated individuals who are assigned to special units such as disciplinary detention or administrative segregation status may have visits modified in regard to place, time, and visitor, depending on the staff and space available.

20.3(19) 20.3(18) Abuse of visiting privileges. Visiting privileges may be modified, suspended, or terminated when abuses are evidenced or planned.

20.3(20) 20.3(19) Special visits. The ~~warden/superintendent~~ warden or designee may permit special visits not otherwise provided for in this rule. These may include, but are not limited to, extended visits for close family members traveling extended distances, immediate visits for close relatives or friends about to leave the area, visits necessary to straighten out critical personal affairs, and other visits for similar reasons. All these visits shall be at the sole discretion of the ~~warden/superintendent~~ warden or

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designee. When ruling on such visits, the ~~warden/superintendent~~ warden or designee shall consider appropriate factors including the uniqueness of the circumstances involved for both the ~~offender incarcerated individual~~ and the visitor; security, order, and administrative needs of the institution; and available alternatives to a special visit. The decision of the ~~warden/superintendent~~ warden or designee in these cases constitutes final agency action.

~~20.3(21)~~ **20.3(20)** *Temporary modifications.* Visiting procedures may be temporarily modified or suspended in the following circumstances: riot, disturbance, fire, labor dispute, space and personnel restrictions, natural disaster, or other emergency.

This rule is intended to implement Iowa Code section 904.512.

ITEM 19. Amend rule 201—20.4(904) as follows:

201—20.4(904) Mail. Constructive, unlimited correspondence with family, friends, and community sources will be encouraged and facilitated. ~~Offenders~~ Incarcerated individuals have the responsibility in the use of correspondence to be truthful and honest. Institutions have the responsibility to maintain a safe, secure, and orderly procedure for ~~offender~~ use of the mail by an incarcerated individual. Mail is additionally governed by the provisions of department of corrections policy OP-MTV-01.

20.4(1) *Nonconfidential.*

~~a. Mail will not be read or censored on a regular basis unless there is justifiable cause.~~ In an effort to maintain proper security measures, mail may be monitored and read on a random basis.

~~b. All nonconfidential mail shall be inspected for contraband. Nonconfidential mail shall be read when there is suspected abuse of correspondence or a threat to the good sense of order and security of the institution.~~

20.4(2) *Confidential.*

a. No change.

b. Confidential mail will be delivered unopened and then, in the presence of the ~~offender incarcerated individual~~, will be opened and inspected for contraband and to ensure that the contents are from the return addressee.

Confidential mail may be read only after a finding of probable cause by a court of competent jurisdiction that a threat to the order and security of the institution or abuse of correspondence exists.

c. and d. No change.

20.4(3) *General.*

a. Pursuant to Iowa Code chapter 2C, mail received from the ~~office of citizens' aide~~ ombudsman office shall be delivered unopened.

b. When sending confidential mail, ~~offenders incarcerated individuals~~ may be requested to seal the envelope in the presence of staff after the envelope and letters have been inspected for contraband.

~~c. No mail lists will be maintained restricting persons from writing to offenders or offenders writing to persons in the public.~~ All letters mailed by ~~offenders~~ incarcerated individuals will be left unsealed for inspection of the contents only. Envelopes shall contain letters to the addressee only.

d. and e. No change.

f. Persons under the age of 18 must provide written permission to the ~~warden/superintendent~~ warden from parents or guardian before correspondence with ~~offenders~~ incarcerated individuals will be allowed.

g. ~~Offenders~~ Incarcerated individuals under correctional supervision or detention will not be allowed to correspond with other ~~offenders~~ incarcerated individuals unless the individuals are immediate family and approved by the authority of the institution or both authorities in the case of correspondence between facilities.

“Immediate family” means mother, father, sister, brother, half sister, half brother, spouse, son, daughter, natural grandparents, and natural grandchildren. Legal guardian, foster parents, stepparents, stepchildren, stepsister, and stepbrother will be included provided a positive relationship exists or contact will confer a benefit to the ~~inmate~~ incarcerated individual.

h. ~~Offenders~~ Incarcerated individuals will be denied mail privileges with persons that might present a risk to the order and security of the institution.

CORRECTIONS DEPARTMENT[201](cont'd)

- i.* No change.
- j.* No limit will be placed on the number of letters mailed for ~~offenders~~ incarcerated individuals able to pay the mailing costs. ~~Offenders that~~ incarcerated individuals who are unable to pay mailing costs for legal mail will receive limited assistance which may be recoverable.
- k.* Stamped, return-addressed envelopes will be sold through canteen services for all outgoing letters and will be purchased by the ~~offender~~ incarcerated individual.
- l.* Special equipment may be used to review envelopes for items in the envelopes other than the letter. When the contents of the correspondence is inappropriate or contraband items which are not illegal to possess under the law are found in the mail, the mail will be rejected and the ~~offender~~ incarcerated individual shall be notified with the option to return to sender or destroy.
- m.* When mail is rejected due to inappropriate contents of the correspondence or contraband is found, provided the correspondence is not retained for investigation or prosecution, the ~~offender that~~ incarcerated individual to whom the mail was addressed ~~to~~ will have the option of paying the postage to return the mail to the sender or having the mail destroyed by institutional staff. The ~~offender~~ incarcerated individual must choose one of the two options within three days of the rejection notice. This rule is in reference to the return of opened mail per United States Postal Service, Office of Classification and Rates Administration, Ruling #206.

The sender of rejected correspondence may protest the decision in writing to the ~~warden/superintendent~~ warden.
- n.* All outgoing parcel post items will be packed and sealed by the mail room and postage charged to the ~~offender~~ incarcerated individual.
- o.* Letters will not be delivered which are written in a foreign language or code unless the foreign language is the only language of the ~~offender~~ incarcerated individual (exceptions may be made by the ~~warden/superintendent~~ warden).
- p.* No change.
- q.* The ~~offender's~~ incarcerated individual's name, ID number (~~if known~~), box number or street address, city, state, and zip code shall also appear on the envelope of incoming mail.
- r.* All outgoing mail shall contain a return address including ~~offender~~ the incarcerated individual's name and ID number as well as the name of the institution, address, and zip code.
- s.* and *t.* No change.
- u.* Only first-class letters and packages will be forwarded after an ~~offender's~~ incarcerated individual's transfer or release.
- v.* An individual may deposit funds in an ~~offender's~~ incarcerated individual's account by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an ~~offender's~~ incarcerated individual's account by mail. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections ~~Offender Incarcerated Individual~~ Fiduciary Account (IDOC ~~OFA~~ IIFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the ~~offender's~~ incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An ~~offender's~~ incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.
- w.* No change.
- x.* O-mail. "O-mail" is electronic mail that can be sent to and from ~~offenders~~ incarcerated individuals and the public.
 - (1) The ~~offender's~~ incarcerated individual's family and friends shall be responsible for registering on the corrlinks Internet site to enroll in the O-mail system: <http://www.corrlinks.com> www.corrlinks.com.
 - (2) and (3) No change.
 - (4) Incoming and outgoing O-mail shall meet the same standards as referenced in this rule for ~~offender~~ incarcerated individuals' mail.

CORRECTIONS DEPARTMENT[201](cont'd)

(5) No change.

ITEM 20. Amend rule 201—20.5(904) as follows:

201—20.5(904) Money orders, cashier's checks, and electronic funds transfers for offenders incarcerated individuals. An individual may deposit funds in an incarcerated individual's account by money order, cashier's check, or electronic funds transfer. Personal checks and cash will not be accepted. Only money orders and cashier's checks will be accepted for deposit into an offender's incarcerated individual's account by mail. Personal checks and cash will not be accepted. Money orders and cashier's checks must be made payable to the Iowa Department of Corrections Offender Incarcerated Individual Fiduciary Account (IDOC OIA IIFA) and sent to: Fort Dodge Correctional Facility, 1550 L Street, Suite B, Fort Dodge, Iowa 50501, and must include the offender's incarcerated individual's name and ID number and the sender's name and complete address. Funds will also be accepted via electronic funds transfers from authorized vendors. An offender's incarcerated individual's suspected abuse of requests for money from the public may be cause for limits or restrictions on the amounts of money which can be received and from whom money can be received.

ITEM 21. Amend rule 201—20.6(904) as follows:

201—20.6(904) Publications.

20.6(1) The institution shall allow offenders incarcerated individuals access to publications when doing so is consistent with institutional goals of maintaining internal order, safety, security, and rehabilitation.

20.6(2) Publications include any periodical, newspaper, book, pamphlet, magazine, newsletter, or similar material published by any individual, organization, company, or corporation, and made available for a commercial purpose. All publications shall be unused and sent directly from an approved publisher or bookstore which does mail order business. Any exceptions must be authorized by the warden or superintendent. No publication will be denied solely on the basis of its appeal to a particular ethnic, racial, religious, or political group. The quantity of printed materials, as with other personal property, will be controlled for safety and security reasons.

20.6(3) All publications not on the approved list shall be reviewed by a publication review committee for approval, denial, or control of the publication.

a. The committee shall be appointed by the director or designee, department of corrections, and shall include a person with broad exposure to various publications and two representatives of correctional operations.

b. The committee shall fairly review all types of publications to be received by offenders incarcerated individuals in accordance with these rules.

20.6(4) The following procedures shall be used when a publication not on the approved list is reviewed:

a. The committee shall approve, deny, or control publications within 30 working days of receipt of the publication.

b. When a publication is denied or controlled, the committee shall send the offender incarcerated individual a written notice stating the publication involved, the reason for denial or control, and the offender's incarcerated individual's available appeal process.

c. The offender incarcerated individual shall have five days from receipt of the notice of denial or control to notify the designated institution staff to destroy the publication, to specify where to send the publication at the offender's incarcerated individual's expense, or to notify the institution that the decision is being appealed.

d. No change.

20.6(5) No change.

20.6(6) Portrayal or simulation of fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse, male erection, bestiality, sadomasochism, excretory functions, lewd exhibition of genitals,

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or other sexually explicit materials will be denied to ~~offenders~~ incarcerated individuals when the material is inconsistent with rehabilitation goals.

20.6(7) Publications which contain material portraying or simulating fellatio, cunnilingus, masturbation, ejaculation, sexual intercourse or male erection and are not approved or denied by the review committee will be controlled for the security and order of the institution and to assist in enabling its control from those ~~offenders~~ incarcerated individuals denied access by 20.6(6) above. Institutional procedures shall be established for the ~~offender~~ incarcerated individual to reserve time in a designated controlled area and obtain the controlled publication for reading during specified times. The controlled publication will be secured until the ~~offender~~ incarcerated individual makes arrangements for further review of the controlled publication. An ~~offender~~ incarcerated individual may have secured no more than ten publications at any given time, none of which are over three months old from publication date or receipt, and any that are in excess of the ten limit or over three months old must be sent out of the institution at the ~~offender's~~ incarcerated individual's expense, destroyed, or taken with the ~~offender~~ incarcerated individual upon release.

20.6(8) An ~~offender~~ incarcerated individual may appeal the committee's decision or the denial of a publication because the publication is inconsistent with rehabilitation goals within ten days of receipt of the decision by filing a written appeal and sending it to ~~Administrator, Division of Investigative Services~~ Office of Inspector General, Department of Corrections, 510 East 12th Street, Des Moines, Iowa 50319. The ~~administrator's~~ inspector general's decision shall be final.

ITEM 22. Amend rule 201—20.7(904) as follows:

201—20.7(904) Interviews and statements.

20.7(1) When ~~offenders~~ incarcerated individuals are selected to be interviewed and photographed within the institution, either individually or as part of a group, identifiable interviews or pictures shall have the written consent of the ~~offender~~ incarcerated individual involved as well as prior consent of the warden, ~~superintendent~~, or designee.

20.7(2) The warden ~~or superintendent~~ is responsible for all communications with mass media.

ITEM 23. Amend rule 201—20.8(904) as follows:

201—20.8(904) Guests of institution. Persons wishing to visit the institution shall give prior notice of their intended visit and receive approval for the visit. The prior notice and approval may be waived by the warden, ~~superintendent~~, or designee for emergencies.

20.8(1) No change.

20.8(2) Persons under 18 years of age may only visit with prior approval of the warden, ~~superintendent~~, or designee, and shall be accompanied by a responsible adult. An adult shall be in charge of no more than four children. Persons under 18 years of age shall not be allowed to make institutional tours of maximum security prisons.

20.8(3) Guests shall be escorted by a staff member. Any exception shall have prior approval of the warden, ~~superintendent~~, or designee.

20.8(4) Guests shall be allowed personal contact with an ~~offender~~ incarcerated individual only when it serves the best interests of the ~~offender~~ incarcerated individual as determined by the warden, ~~superintendent~~, or designee.

20.8(5) All contacts with ~~offenders~~ incarcerated individuals shall be absent of any encouragement, support, or suggestion of activity which would bring disorder to the institution.

20.8(6) Rescinded IAB 3/20/91.

ITEM 24. Amend rule 201—20.9(904) as follows:

201—20.9(904) Donations. Donations of money, books, games, recreation equipment or other such gifts shall be made directly to the warden ~~or superintendent~~. The warden ~~or superintendent~~ shall evaluate the donation in terms of the nature of the contribution to the institution program. The warden

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~~or superintendent~~ is responsible for accepting the donation and reporting the gift to the ~~regional~~ institutional deputy director on a monthly basis.

ITEM 25. Adopt the following new rule 201—20.10(904):

201—20.10(904) Incarceration fees. The director may charge incarcerated individuals an incarceration fee, pursuant to Iowa Code section 904.108.

ITEM 26. Amend rule 201—20.11(904,910) as follows:

201—20.11(904,910) Restitution.

20.11(1) Every ~~offender~~ incarcerated individual required by a court order to pay restitution shall have a restitution plan and a restitution plan of payment developed, unless a court-ordered restitution plan has been completed.

20.11(2) The restitution plan of payment shall consider the present circumstances of an ~~offender's~~ incarcerated individual's physical/mental health and other legal financial obligations.

20.11(3) The deputy director of institutions shall ensure that there are written procedures governing the development and modification of each restitution plan and plan of payment.

20.11(4) Each ~~offender~~ incarcerated individual shall be given a Predeprivation Notice: Notice of Intent to Deduct Restitution From All Account Credits and Notice of Opportunity to Respond during initial reception following admission to the Iowa medical and classification center (IMCC) or the Iowa correctional institution for women (ICIW).

20.11(5) Initial ~~offender~~ complaints by incarcerated individuals regarding restitution plans of payment or modifications may be addressed via the ~~offender~~ grievance procedure for incarcerated individuals.

20.11(6) The staff shall explain the restitution plan of payment to the ~~offender~~ incarcerated individual. Each ~~offender~~ incarcerated individual shall receive a copy of the restitution plan of payment.

20.11(7) Restitution payments shall be deducted from all credits to an ~~offender's~~ incarcerated individual's account. Up to 50 percent may be deducted. The following are exempt for deductions from credits to an ~~offender's~~ incarcerated individual's account from an outside source:

a. An amount, assessed by the ~~warden/superintendent~~ warden or designee, specifically for medical costs. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed. If the medical procedures are not performed or carried out, the money shall be returned to the sender at the ~~offender's~~ incarcerated individual's expense.

b. An amount, assessed by the ~~warden/superintendent~~ warden or designee, specifically for the cost of a funeral trip. The same percent as established in the restitution plan will be deducted from any amount over the total amount assessed.

c. to f. No change.

g. Any other exception approved by the ~~warden/superintendent~~ warden or designee.

20.11(8) and **20.11(9)** No change.

20.11(10) A percent greater than that established in the restitution plan of payment may be deducted from a credit to an ~~offender's~~ incarcerated individual's account by authorization of either the ~~offender,~~ incarcerated individual or the warden/superintendent warden or designee; or by court order.

20.11(11) No change.

This rule is intended to implement Iowa Code chapter 904 and sections 910.2, 910.3 and 910.5.

ITEM 27. Amend rule 201—20.12(904) as follows:

201—20.12(904) Furloughs.

20.12(1) Furloughs are a privilege, not a right, and may be denied or canceled at any time for reasons deemed sufficient by the ~~warden/superintendent~~ warden. Reasons for denial or cancellation shall be given to the ~~offender~~ incarcerated individual.

20.12(2) No change.

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20.12(3) Emergency medical furlough is for those ~~offenders~~ incarcerated individuals whose medical condition has deteriorated to the point of incapacitation or to a comatose state.

20.12(4) Both emergency family furloughs and emergency medical furloughs shall have approval of the ~~warden/superintendent~~ warden and the ~~respective regional~~ institutional deputy director.

20.12(5) Furloughs are additionally governed by the provisions of the department's furlough policy IS-RL-04.

ITEM 28. Amend rule 201—20.13(904) as follows:

201—20.13(904) Board of parole interviews. Each institution provides space for the conduct of interviews between the Iowa board of parole and institutional ~~offenders~~ incarcerated individuals. When these meetings are held in correctional institutions, attendance is subject to security and safety regulations as stated herein. Any exception to these rules must have prior approval of the director of the department of corrections or designee.

20.13(1) Persons desiring to attend a board of parole interview who are not on an ~~offender's~~ incarcerated individual's visiting list shall notify the ~~warden or superintendent~~ of the respective institution of their intent to attend. A visitor's application will be sent to the person, and the completed application must be received back by the institution at least 15 days prior to the scheduled date of the parole interview in order that a background investigation with law enforcement officials may be completed prior to attendance at the parole interview. Following a successful background investigation, authorization to attend parole interviews will be continuous subject to these rules and any subsequent background investigations conducted at the discretion of the ~~warden or superintendent~~.

20.13(2) Due to security considerations, those persons excluded from applying for visitation privileges pursuant to ~~subrule 20.3(1), paragraph "f," subparagraphs (1) to (7)~~ subparagraphs 20.3(4) "a"(1) to (7), inclusive, are also excluded from attending parole board interviews as listed below:

- a. Individuals who have been discharged from a correctional institution within the last 18 months.
- b. Individuals whose behavior represents a control problem or is counterproductive to the rehabilitation of the ~~offender~~ incarcerated individual. This may be reflected in the background investigation report which shows the ~~individual~~ individual's having a record of carrying concealed weapons, irresponsible or illegal use of a controlled substance, previous violation of institutional rules, or similar behavior.

c. to g. No change.

20.13(3) Due to security considerations the following rules shall apply:

- a. and b. No change.
- c. Individuals may be required to leave the institution when:
 - (1) The ~~offender~~ incarcerated individual or attendee engages in behavior that may in any way be disruptive to order and control of the institution.
 - (2) No change.
 - (3) The attendee and ~~offender~~ incarcerated individual directly exchange any object or article.
 - (4) The attendee talks or communicates with an ~~offender~~ incarcerated individual.
 - (5) No change.
 - (6) There is detriment to the health of the ~~offender~~ incarcerated individual or attendee.
 - (7) No change.
- d. Minors outside the immediate family shall have written permission from their parent or guardian and be accompanied by an adult. All children shall have adult supervision. Exceptions shall have prior approval of the ~~warden, superintendent~~ or designee.
- e. No change.
- f. Attendees may be requested to submit to a personal search (pat down) or review by an electronic device for weapons or contraband. When the electronic device alarm is activated, the attendee shall produce the item; or a personal search may be made to find the item that set off the alarm. Attendees may be requested to submit to a strip search when there is an articulable reason to believe the person is concealing a weapon or contraband. Each institution shall designate the level of authority required

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to request a search through institutional policy. This person shall authorize the search in writing. The designation required pursuant to subrule ~~20.3(9)~~ 20.3(8) for visitation will suffice for this subrule as well. Entrance may be denied when the attendee is not willing to submit to a search. The request for a search shall be conducted in an inconspicuous manner. The attendee may verbally request a review by the warden, ~~superintendent~~, or designee at the time of request for a search.

(1) to (6) No change.

20.13(4) to **20.13(7)** No change.

20.13(8) Rules that apply to registered victims are found in subrule ~~20.15(8)~~ 20.15(7).

This rule is intended to implement Iowa Code sections 904.102 and 904.103.

ITEM 29. Amend rule 201—20.14(80A) as follows:

201—20.14(80A) Offender transportation Transportation for incarcerated individuals.

20.14(1) Companies under contract to county or state agencies to transport Iowa ~~offenders incarcerated individuals~~ must meet the requirements of this rule to qualify for exemption under Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2334.

20.14(2) To comply with the exemption in Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2334, the following requirements shall apply:

a. ~~A company(ies)~~ Companies contracting with any jurisdiction/agency within the state of Iowa shall provide, upon request, training and compliance with policy standards governing weapons, security, transportation, and ~~offender~~ management procedures for incarcerated individuals essential to accomplishing safe and secure movement of ~~offenders~~ incarcerated individuals.

b. ~~A company~~ Companies contracting to provide ~~offender~~ transportation for incarcerated individuals with a jurisdiction/agency within the state of Iowa shall provide proof of insurance coverage including, but not limited to, comprehensive general liability, automobile liability, workers' compensation insurance, all inclusive policies, general liability, and errors or omissions.

c. ~~A company~~ Companies contracting with any jurisdiction/agency within the state of Iowa shall provide the names, dates of birth, and social security numbers of all transportation personnel for criminal history checks.

d. to f. No change.

g. This exemption applies only to ~~offender~~ transportation companies for incarcerated individuals. This exemption does not provide exemption for any other part of this statute.

This rule is intended to implement Iowa Code section 80A.2 as amended by 1998 Iowa Acts, Senate File 2334.

ITEM 30. Amend rule 201—20.15(910A) as follows:

201—20.15(910A) Victim notification.

20.15(1) No change.

20.15(2) A victim of a violent crime may become registered with the department of corrections which entitles the victim to be notified when the ~~offender~~ incarcerated individual is to be released in any of the following situations:

a. *Work release.* Approximate date of release and whether the ~~offender~~ incarcerated individual is expected to return to the community where the victim resides will be provided.

b. *Furlough.* Date of leave, date of return and whether the ~~offender~~ incarcerated individual is expected to return to the community where the victim resides will be provided.

c. to e. No change.

f. *Parole.* Approximate date of release and whether the ~~offender~~ incarcerated individual is expected to return to the community where the victim resides.

~~**20.15(3)** Rescinded IAB 3/20/91.~~

20.15(4) ~~**20.15(3)**~~ A victim will become registered upon official request by the county attorney to the Director, or designee, Iowa Department of Corrections, ~~Capitol Annex, 523~~ 510 East 12th Street, Des Moines, Iowa 50319.

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~~20.15(5)~~ **20.15(4)** Assistance for registering may be obtained through the county attorney or by contacting the department of corrections, director of ~~corrections~~ victim programs, at ~~(515)281-4811~~ (515)725-5701.

~~20.15(6)~~ **20.15(5)** All information with regard to a registered victim will be kept confidential.

~~20.15(7)~~ **20.15(6)** A registered victim is responsible for notifying the department of corrections of address or telephone changes.

~~20.15(8)~~ **20.15(7)** Registered victims of the Iowa board of parole may attend hearings in accordance with the following rules:

a. Registered victims by the parole board have the right to appear at the ~~offender(s)~~ parole/work release hearing of the incarcerated individual(s) either personally or by counsel.

b. The parole board notifies victims of any scheduled parole/work release hearings where the board will interview the ~~offender~~ incarcerated individual not less than 20 days prior to the hearing.

c. The parole board notification will request any victim(s) planning to attend a hearing to notify the ~~warden/superintendent~~ warden of the intention to attend prior to the hearing.

d. A victim may only be denied attendance when, in the opinion of the ~~warden/superintendent~~ warden or designee, the victim(s) presents a threat to the security and order of the institution.

e. No change.

f. The security director or designee should consider separation of the victim(s) and family/friends in attendance at the same hearing. If there are any signs of conflict between ~~victims~~ the victim(s) and family/friends of ~~offenders~~ incarcerated individuals, the ~~victims~~ victim(s) shall be escorted out of the institution to avoid an unsupervised contact situation on institution grounds.

This rule is intended to implement Iowa Code section 910A.9.

ITEM 31. Amend rule 201—20.17(904) as follows:

201—20.17(904) Institutional community placement.

20.17(1) Home care program. This program allows for selected ~~offenders~~ incarcerated individuals to be released from institutional confinement for a set period of time for the purpose of caring for the ~~offender's~~ incarcerated individual's immediate family. Release may be to a community correction residential facility/halfway house or to the ~~offender's~~ incarcerated individual's home, home of an immediate family member, or other approved arrangements, provided the living environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

a. *Eligibility criteria.*

(1) The ~~offender~~ incarcerated individual must be the natural parent or legal guardian of the child/children.

(2) The ~~offender~~ incarcerated individual must show cause that this program can provide more suitable care than the present living situation of the child/children.

(3) No change.

(4) The ~~offender~~ incarcerated individual must have been the primary caretaker of the child/children prior to incarceration.

(5) Investigating staff must be able to confirm that the ~~offender~~ incarcerated individual had satisfactorily served this care prior to incarceration.

(6) The proposed living arrangements shall provide a suitable environment for the ~~offender~~ incarcerated individual and dependents.

(7) No change.

(8) It will be verified that the ~~offender~~ incarcerated individual, including spouse or immediate family member living at the same residence, can and will provide adequate support towards the child, children, or other dependent. Eligibility requirements for assistance through the department of human services programs (FIP, food stamps, etc.) will be verified prior to final approval.

(9) It will be verified that the ~~offender~~ incarcerated individual or immediate family living at the residence can provide adequate transportation or that public transportation is available.

(10) Adequate support services (medical, psychological, educational, as well as other treatment programs) must be arranged and available to both the ~~offender~~ incarcerated individual and dependents.

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(11) Dependent care for an adult member of the offender's incarcerated individual's immediate family must include a medically documented need with periodic supervision or other approved arrangements by a health-trained professional.

b. Requirements.

(1) Education/employment/child care/adult dependent care. Where all dependents are involved in full-time school, participation in an educational or employment program may be required of the offender incarcerated individual. Where such dependents are not yet in school, child care may be considered as full-time employment.

(2) No change.

20.17(2) Work program—eligibility criteria. This program allows for selected offenders incarcerated individuals to be released from institutional confinement for a period of time for gainful employment in the community. The program may also include placement in a community corrections residential facility/halfway house, or to the offender's incarcerated individual's home, home of an immediate family member, or other approved arrangements, provided the living environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

a. The offender incarcerated individual must show a substantial need and interest for participation in the program.

b. The offender incarcerated individual must seek and apply for employment through established procedures of the furlough program or through institutional correspondence, telephone, or visiting procedures.

c. No change.

20.17(3) Educational program—eligibility criteria. This program allows for selected offenders incarcerated individuals to be released from institutional confinement for a period of time for educational opportunities in the community. This program may also include placement in a community corrections residential facility/halfway house or to the offender's incarcerated individual's home, home of an immediate family member, or other approved arrangements, provided the environment is suitable to institutional requirements. Release may be for a set number of hours or days as appropriate.

a. The offender incarcerated individual must show a substantial need and interest for participation in the program.

b. The offender incarcerated individual must seek educational opportunities and financial support through established procedures of the furlough program or through institutional correspondence, telephone, or visiting procedures (financial arrangements can only include family support or grants). Educational loans or loans of any type will not be allowed while on institutional count. Additional community corrections restriction may apply while under community supervision.

20.17(4) General requirements for all three programs.

a. Participation in any of these programs at any level is a privilege, not a right, of which participating offenders incarcerated individuals are subject to and held accountable for all provisions of this policy as well as the specific program plan.

b. No change.

c. Offenders incarcerated individuals must be furlough-eligible in accordance with furlough eligibility standards in DOC policy IS-RL-04 and administrative rule ~~20.12(904)~~ 201—20.12(904).

d. and *e.* No change.

f. The offender incarcerated individual may be required to submit to periodic or regular U.A. Testing (this procedure may be completed at any correctional institution, community corrections facility/office, or at the residence).

g. and *h.* No change.

i. Contact frequency. A minimum of one home visit and one other face-to-face contact per month is required of staff. Furthermore, a sufficient number of collateral contacts will be made each month to ensure that the offender incarcerated individual is meeting requirements of the program plan.

j. Special needs. In situations where offenders incarcerated individuals or the family have special needs, a case planning system shall be incorporated to address needs, capabilities, and specific goals. Special attention shall be given to past or immediate problems.

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- k. No change.
 - l. Temporary absence. ~~Offenders~~ Incarcerated individuals may temporarily leave the residence for necessary purposes such as shopping, religious services, family recreation, medical appointments, employment, etc., as indicated on the plan.
- 20.17(5) Application procedures.**
- a. to c. No change.
 - d. The classification committee's recommendation must be approved by the ~~warden/superintendent~~ warden.
 - e. If approved by the ~~warden/superintendent~~ warden, the recommendation and all pertinent information shall be forwarded to the institutional deputy director for final approval.
 - f. If the recommendation is approved by the institutional deputy director, the ~~offender~~ incarcerated individual must agree to abide by all rules established in the program plan including institutional rules and community corrections rules as well as all local, state, and federal laws.
 - g. No change.
 - h. ~~Offenders~~ Incarcerated individuals placed in any of these programs will not be relieved of paying restitution or any other financial obligation as required by the court or institution.

20.17(6) No change.

20.17(7) Program activity. This rule does not create any liberty interest in the ~~offender's~~ incarcerated individual's continued participation in any of the programs at any level listed under this rule, and the department of corrections or its designee(s) reserves the right to revoke, suspend, or limit/restrict program activity from the listed programs for any reason, without hearing.

20.17(8) Waiver of liberty interests. As a condition for an ~~offender~~ incarcerated individual to participate in any of the programs at any level listed under this rule, the ~~offender~~ incarcerated individual must voluntarily waive any and all liberty interests to a hearing should the department exercise its right to revoke, suspend or limit/restrict program activity. This waiver must be signed prior to an ~~offender's~~ incarcerated individual's acceptance into a program. The signed waiver shall remove any and all rights to due process should the department exercise its right to revoke, suspend or limit/restrict program activity.

This rule is intended to implement Iowa Code section 904.910.

ITEM 32. Rescind and reserve rule **201—20.18(904)**.

ITEM 33. Amend rule 201—20.20(904) as follows:

201—20.20(904) Offender Incarcerated individuals' telephone commissions.

20.20(1) Definitions.

"*Corrections board*" means the department of corrections board.

~~"Deputy director~~ *Financial manager of administration*" means the person responsible for budgeting and planning.

"*Director*" means the chief executive officer of the department of corrections.

~~"Regional deputy~~ *Deputy director of institutions*" means the person responsible for ~~regional~~ operation of ~~both institution and community corrections services in either the eastern or western portions of Iowa.~~

~~"Warden/superintendent~~ *Warden*" means the chief executive officer of the institution or correctional facility.

20.20(2) Deposit of funds. The department of corrections shall deposit and account for all telephone commissions in a clearing account within the central office. The ~~deputy director~~ financial manager of administration will determine commissions generated by each institution, based on a report from the vendor, for deposit in the institution's ~~offender~~ telephone rebate fund for incarcerated individuals.

20.20(3) Request for funds. Each ~~warden/superintendent~~ warden will determine recurring needs and special projects and submit a written proposal to the ~~respective regional~~ deputy director of institutions for all expenditures and encumbrances.

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20.20(4) Review and approval of expenditures. The ~~regional~~ deputy director of operations and the ~~deputy director~~ financial manager of administration will review the proposals for a quarterly presentation by the director to the corrections board for approval. The director will notify the chairpersons and ranking members of the justice system's appropriations subcommittee of the proposals prior to the corrections board approval. All expenditures and encumbrances shall require prior approval from the corrections board and the ~~respective regional~~ deputy director of operations. Institutions shall not be allowed to encumber or expend funds without approval. Revenues generated by telephone commissions at each institution shall be used to determine the availability of funds for each project.

20.20(5) Permitted expenditures. The director shall advance to the corrections board for approval only projects that benefit ~~offenders~~ incarcerated individuals. Expenditures may include, but are not limited to, projects that provide educational, vocational or recreational services or projects, or work or treatment programs for ~~offenders~~ incarcerated individuals. Expenditures may also be used to initiate new programs, services, or projects. Institutions shall give spending priority to programs, services, and projects that promote the health and welfare of ~~offenders~~ incarcerated individuals.

This rule is intended to implement Iowa Code section 904.508A.

ITEM 34. Amend rule 201—38.2(692A,903B) as follows:

201—38.2(692A,903B) Electronic monitoring. It is the intent of the Iowa department of corrections that the electronic monitoring system (EMS) shall be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders based upon a validated risk assessment, the sex offender's criminal history, progress in treatment and supervision, and other relevant factors. EMS is additionally governed by the provisions of department of corrections policy OP-SOP-06.

38.2(1) Definitions.

"*Electronic monitoring system*" or "*EMS*" is a term used collectively for technology that determines the location of ~~offenders~~ clients who have restricted movement while being supervised in their respective community. EMS ~~may also incorporate the ability to conduct random substance abuse testing.~~

"*Offender Client*" means a person who is required to register with the Iowa sex offender registry.

38.2(2) Selection of offenders clients for EMS. All ~~offenders~~ clients on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A shall be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

38.2(3) Risk assessment instrument. ~~All required risk~~ Risk assessments used shall be ~~conducted utilizing the risk assessment instruments outlined below as validated and approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders.~~ The risk assessment should be completed within 30 days prior to the ~~offender's~~ incarcerated individual's release from custody or upon the ~~offender's~~ incarcerated individual's/client's placement on probation, parole, or work release.

a. —Statie 99—revised. Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

b. —ISORA. Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

c. —Stable 2007. Designed to assess dynamic risk factors for sex offense recidivism for the purpose of treatment, supervision, and monitoring of sex offenders primarily on community correctional supervision.

d. —Level of service inventory—revised. A quantitative risk assessment instrument to determine the ~~offender's criminogenic risk, programming needs and the required level of service.~~

38.2(4) Notification of victims. ~~A~~ The supervising judicial district department of correctional services shall notify a registered victim regarding a sex offender who is convicted of a sex offense against a minor and who is under the supervision of a judicial district department of correctional services of the following:

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a. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

b. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

NOTE: Notification includes the initial notification to victims of the date that ~~an offender~~ a client has been placed on an electronic monitoring device, notification as to the date an electronic monitoring device was changed with greater or less monitoring capabilities (GPS to radio frequency or radio frequency to GPS), and notification as to the date the ~~offender~~ client was removed from an EMS.

38.2(5) No change.

ITEM 35. Amend rule 201—38.4(903B) as follows:

201—38.4(903B) Hormonal intervention therapy.

38.4(1) *Affected offenders clients.* All ~~offenders~~ clients convicted of a “serious sex offense” in which the victim was a child who, at the time the offense was committed, was 12 years of age or younger; or ~~offenders~~ clients convicted of a second or subsequent offense may be required to undergo hormonal intervention therapy as ordered by the court or board of parole in accordance with the provisions of ~~1998 Iowa Acts, Senate File 2398, section 21~~ Iowa Code section 903B.10.

38.4(2) *Agency responsibility.* The department of corrections, judicial districts’ departments of correctional services, and the board of parole responsibilities are defined in ~~1998 Iowa Acts, Senate File 2398, section 21~~ accordance with the provisions of Iowa Code section 903B.10.

38.4(3) *Assessment of affected offenders clients.*

a. Psychosexual assessment. A psychosexual assessment shall be conducted on all “affected” ~~offenders~~ clients, as a part of the presentence investigation (PSI) prior to sentencing or upon entry into judicial district department of correctional services supervision or institutional placement if a referral for hormonal intervention therapy is being made.

(1) The psychosexual assessment shall be conducted by or under the direction of:

- A licensed psychologist; or
- A person specifically trained and experienced in the professional administration, scoring and interpretation of psychological tests (graduate level coursework in testing and assessment); or
- A staff member ~~that~~ who meets the experience and educational requirements of the Iowa department of ~~personnel~~ administrative services or Iowa community-based corrections psychologist classification.

(2) No change.

(3) The assessment shall follow the ~~department of corrections~~ statewide standardized format and shall include a determination as to the need and effectiveness of hormonal intervention therapy as well as treatment recommendations.

b. Medical assessment. If hormonal intervention therapy is recommended as an appropriate treatment component, the ~~offender~~ client shall receive a medical assessment to determine biological factors as related to hormonal intervention therapy.

38.4(4) No change.

38.4(5) *Educational/treatment programming.*

a. Hormonal intervention therapy is to be utilized in conjunction with a sex offender ~~educational/treatment~~ treatment program (SOTP). The ~~offender~~ client should be involved in concurrent cognitive-behavioral treatment. In all cases where the treatment plan includes hormonal therapy, the plan shall also include monitoring and counseling.

b. All institutional or community-based corrections ~~SOTP programs~~ SOTPs shall meet the current Iowa board for the treatment of sexual abusers (IBTSA) standards ~~dated March 2006.~~

38.4(6) *Application of hormonal therapy.*

a. Utilization of hormonal therapy.

(1) Therapy shall utilize medroxyprogesterone acetate (MPA) or other approved pharmaceutical agents.

(2) Therapy shall be initiated as soon as reasonably possible after the ~~offender~~ client is sentenced.

CORRECTIONS DEPARTMENT[201](cont'd)

1. If the offender client is incarcerated within a local jurisdiction (jail, residential facility), the judicial district department of correctional services shall coordinate initiation of treatment prior to the release of the offender client from custody.

2. If the offender client is incarcerated within the department of corrections, initiation of treatment shall be determined by department of corrections medical staff.

(3) Requests for hormonal therapy by the offender client when the aforementioned criteria are not met shall be reviewed for consideration by the agency of jurisdiction.

(4) No change.

b. Monitoring/termination of hormonal therapy.

(1) Monitoring. The agency of jurisdiction shall continue to monitor the offender's client's therapy throughout the offender's client's confinement or supervision. The agency of jurisdiction may adjust medication, initiate other medication, or continue prescribed therapy with medical approval.

(2) No change.

38.4(7) *Offender Client fees.* Offenders Clients are required to pay a reasonable fee for the costs related to hormonal therapy. Offender Client fees shall be based on the offender's client's ability to pay as determined by the supervising office statewide client fee policy.

38.4(8) *Maintenance/transfer of records.* Offender Client file information shall be available and shared upon request between responsible agencies including court of jurisdiction.

ITEM 36. Amend **201—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter~~ chapters 692A as amended by 2009 Iowa Acts, Senate File 340, and Iowa Code ~~chapter~~ 903B.

ITEM 37. Amend rule **201—40.1(905)**, definitions of “Deputy director” and “Medical practitioner,” as follows:

“*Deputy director*” shall mean the ~~respective regional~~ deputy director for community-based corrections (CBC) of the department of corrections.

“*Medical practitioner*” means medical doctor, osteopathic physician ~~or physician's~~, physician assistant or nurse practitioner.

ITEM 38. Amend subrule 40.2(4) as follows:

40.2(4) The biennial team review shall include a complete review of the following:

a. and *b.* No change.

c. Programs mandated by the Code of Iowa and any special programs approved by the department of corrections. Programs shall comply with program specific standards developed and approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders, i.e., domestic abuse, sex offender treatment, and intensive supervision program.

d. No change.

e. Any regular or special evaluations of the services provided by the district department.

The biennial review shall be conducted as provided in the “accreditation standards for community-based corrections” and any program specific standards which shall be open for public inspection at the offices of the department of corrections. A proposed draft of these standards will be made available to the districts 180 days prior to the biennial review. The accreditation and program specific final standards, and any changes in the standards, shall be made available to the district departments at least 90 days before the biennial review.

ITEM 39. Amend subrule 40.4(12) as follows:

40.4(12) Through their approval, the director, Iowa department of corrections, and the Iowa corrections board shall ensure that the director of the district department of correctional services, of districts authorized to carry firearms, has written standards and procedures which regulate the safe conveying and use of firearms. The standards shall include, but not be limited to, the following:

a. to e. No change.

f. Any officer who discharges a weapon shall submit a written report of the incident through the department of corrections critical incident reporting policy. The judicial district director shall file a report

CORRECTIONS DEPARTMENT[201](cont'd)

of the incident, the investigation, and the results of the investigation with the ~~regional~~ deputy director of CBCs within five days of the occurrence.

~~g. No officer shall be required to carry a firearm, and such refusal shall not affect job assignments, promotion consideration, or employment possibility.~~

~~h. g. Firearms shall be secured under lock and key when not in use in a location inaccessible to nonauthorized personnel.~~

ITEM 40. Amend rule 201—40.5(905) as follows:

201—40.5(905) District director.

40.5(1) The department shall have procedures governing the personnel employed by the judicial district, and a system of fiscal accountability which assures ensures compliance with the requirements of the department of corrections and the Code of Iowa.

40.5(2) The director shall ~~acquire current copies of~~ provide electronic access to the Code of Iowa and supplements thereof, the Iowa Administrative Code, and applicable federal regulations and shall prepare and maintain current a department of correctional services policies and procedures manual which shall include, but not be limited to, the following:

a. to f. No change.

40.5(3) The department shall ensure that an employee manual is readily accessible to all employees and shall include information which provides necessary guidance for the performance of the duties outlined in the employee's job description, personnel policies and procedures, and employee rights and responsibilities.

a. No change.

b. The district department shall enter and maintain information required by the department of corrections statewide database application called the Iowa corrections offender network (ICON). That information will include all details necessary for the department of corrections to generate accurate and timely periodic statistical reports of district department, pretrial release, presentence investigations, field services workloads, residential facility occupancy, and specially funded treatment/monitoring programs. The district department shall devise and implement local policies and procedures to provide adequate training and support of data entry personnel and other end users, regularly audit data entry accuracy and timeliness and correct inaccurate or incomplete information discovered during that auditing process.

40.5(4) to 40.5(7) No change.

40.5(8) The district department shall establish fiscal procedures in accordance with guidelines established by the department of corrections to ensure that funds generated from programs financed with state moneys or moneys collected by the use of state allocations be identified and expended to offset program costs as described and approved in the state purchase of service contract. All funds received by the district department and their source shall be reported to the department of corrections. All fund balances for the current fiscal year shall be reported by the district departments to the department of corrections on December 31, March 31, and June 30, and for both fiscal years on September 30 quarterly on specific due dates. Funds so generated shall be expended during the fiscal year in which they are collected. However, such funds not expended during the fiscal year will be utilized by the judicial district department of correctional services to reduce budget requests for the subsequent fiscal year, ~~with the exception of the discretionary funds identified in the following paragraph.~~ All funds shall be applied as budgeted or be utilized as discretionary program funds with the approval of the department of corrections before applying other funds to an expenditure.

~~Commencing with fiscal year 1987, the district department may apply 50 percent of the growth in local funds earned over the average of the previous two fiscal years to discretionary programs in the following fiscal year with department of corrections approval. Additionally, local funds in excess of 10 percent of the purchase of service contract budget may be applied to discretionary programs by the district department in the following fiscal year with department of corrections approval. The total funds which may be carried over for discretionary purposes and not utilized to reduce the subsequent year's budget request shall not exceed 1 percent of the district department's purchase of service contract budget.~~

CORRECTIONS DEPARTMENT[201](cont'd)

40.5(9) The district director shall administer the community-based corrections personnel classification system established by the district departments and the department of corrections and shall adhere to all salary ranges, policies, and procedures established for the purpose of implementing and maintaining the community-based corrections personnel classification ~~system~~ manual.

The district director shall administer the collective bargaining contract and adhere to all policies and procedures established by the department of corrections and department of ~~personnel~~ administrative services for contract administration.

Employee positions utilized by the district department shall be approved by the district board and the department of corrections through the purchase of service agreement. Any changes in the number and classification of positions authorized in the purchase of service agreement shall be approved by the district board and the department of corrections.

40.5(10) The district director shall administer preemployment testing to determine the suitability of applicants for corrections positions in district departments of correctional services in compliance with the Code of Iowa. Applicants, pursuant to the Code of Iowa, must satisfactorily complete ~~psychological and cognitive testing~~ mental fitness testing as approved by the department of corrections prior to hire. In addition, a background investigation and criminal records check will be completed on all hires.

ITEM 41. Amend rule 201—41.1(811,905) as follows:

201—41.1(811,905) Pretrial services.

41.1(1) The district department shall designate the staff responsible for providing pretrial ~~interviews~~ assessments and release with services programs.

41.1(2) No change.

41.1(3) The district department shall have policies and procedures ~~assuring~~ ensuring daily staff ~~contact with~~ availability for all jails in the district for the purpose of determining the presence of persons eligible for a pretrial ~~interview~~ assessment and shall have policy ~~assuring~~ ensuring that all eligible persons are provided an ~~interview~~ assessment without unnecessary delay.

41.1(4) The district department shall have written policies establishing uniform, validated criteria, as approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders for screening pretrial release candidates, which require consideration of those items contained in Iowa Code section 811.2.

41.1(5) and **41.1(6)** No change.

41.1(7) The district department shall have written policies and procedures governing the supervision of persons released to ~~assure~~ ensure that adequate supervision is provided.

41.1(8) The district department shall have written policies and procedures governing the notification of the agent or agencies responsible for correctional clients who receive pretrial ~~interviews~~ assessments.

41.1(9) No change.

ITEM 42. Amend rule 201—41.2(901,905) as follows:

201—41.2(901,905) Presentence investigation.

41.2(1) and **41.2(2)** No change.

41.2(3) The district department shall have written policies and procedures which ensure that the presentence investigation report includes an identification of client needs, protective factors and the results of a validated risk assessment as approved by the department of corrections with collaborative input from the judicial districts and other affected stakeholders.

41.2(4) and **41.2(5)** No change.

41.2(6) The district department shall have written policies and procedures concerning the content of presentence investigations ordered by the judiciary when the offense is ~~a serious~~ an aggravated misdemeanor or higher.

CORRECTIONS DEPARTMENT[201](cont'd)

ITEM 43. Amend rule 201—42.1(907,908,910) as follows:

201—42.1(907,908,910) Probation.

42.1(1) No change.

42.1(2) The district department shall have written policies and procedures which ensure that a an electronic case record is maintained on each client under supervision.

42.1(3) The district department shall have uniform written policies and procedures governing the classification and supervision of probationers ~~which is in compliance with the classification system established by the eight district departments and approved by the department of corrections.~~

42.1(4) The district department shall have uniform written policies and procedures which ensure that ~~a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory Revised (LSI-R), CMC/Jesness and Case File Audit System. The district department shall~~ the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified and addressed in an effort to lower risk and reduce victimization using the approved uniform and validated risk/needs assessment instruments. The system should be designed to focus the majority of resources on moderate- and high-risk offenders and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. ~~Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.~~

42.1(5) to 42.1(16) No change.

42.1(17) The district department shall have written policies and procedures to prevent the transmission of contagious infectious disease in compliance with Iowa Code section 905.15.

This rule is intended to implement Iowa Code chapters 905 and 907 and sections 908.11 and 910.5.

ITEM 44. Amend rule 201—43.1(905,907,908,910) as follows:

201—43.1(905,907,908,910) Residential facilities.

43.1(1) The facility shall admit residents ~~only on an order of the~~ in accordance with the correctional continuum, court or in accordance with a order, release order from board of parole, or purchase of service agreement contract with the department of corrections, federal correctional agencies or a county board of supervisors.

43.1(2) At the time of intake, the facility staff shall discuss with each resident, program goals, services available, rules governing conduct in the facility, disciplinary procedures, client fiscal management and residents' rights, ~~and~~ communication privileges and all federal Prison Rape Elimination Act (PREA) orientation and education standards and shall obtain written documentation from the resident that these matters were discussed.

43.1(3) and 43.1(4) No change.

43.1(5) ~~The district department shall have written policies and procedures which ensure that an individual case plan is maintained on each resident which includes an assessment of client needs and resources utilized to meet those needs.~~

43.1(6) 43.1(5) The district department shall have written policies which establish facility rules, possible sanctions, ~~and~~ appeal procedures and PREA standards that comply with all federal standards for all residents.

43.1(7) 43.1(6) The district department shall have written policies which establish a grievance procedure for residents which applies to activities other than disciplinary action.

43.1(8) 43.1(7) The district department shall have written policies and procedures establishing criteria governing the use of and reporting of the use of physical force by facility staff which conform to appropriate statutes or regulations.

43.1(9) 43.1(8) The district department shall have written policies and procedures for searching residents and their property and for seizure of resident property or contraband.

CORRECTIONS DEPARTMENT[201](cont'd)

~~43.1(10)~~ **43.1(9)** The district department shall have a written policy which ensures that at least one staff member is ~~awake, dressed, in the facility, and~~ readily available to residents 24 hours a day. Facility staff shall know the whereabouts of all residents.

~~43.1(11)~~ **43.1(10)** The district department staff shall ~~assure~~ ensure the provision and maintenance of a safe environment for the residents, including compliance with fire, building, health, and safety regulations or standards applicable in the local jurisdiction.

~~43.1(12)~~ **43.1(11)** Infectious disease.

a. In compliance with Iowa Code section 905.15, the district department shall have written policies and procedures to prevent the transmission of contagious infectious disease, including notification to facility personnel if any person committed to the facility is found to have a contagious infectious disease.

b. The district department shall ~~provide~~ refer for a medical examination of any resident suspected of having a communicable disease, which safeguards both residents and employees. Employees who contract a communicable disease, except common colds, should not be permitted to work in a facility until the danger of contagion is ended. For purposes of this rule, communicable disease shall mean any disease which is transmittable from one person to another and is either temporarily or permanently debilitating.

~~43.1(13)~~ **43.1(12)** The district department shall have written policies and procedures which govern the medical care of residents in case of emergencies, sudden illnesses, or accidents.

~~43.1(14)~~ **43.1(13)** The district department shall have written policies and procedures governing the method of handling prescription and nonprescription drugs.

~~43.1(15)~~ **43.1(14)** The district department shall have written policies and procedures which ~~assure~~ ensure that all residents have access to three meals a day during the week and two meals on weekend days and that meals provided at the facility meet recognized minimum daily nutritional requirements.

~~43.1(16)~~ **43.1(15)** The district department shall have written policies which ensure that if food service is provided, all facilities including kitchen equipment and food handlers comply with applicable health and safety laws and regulations as evidenced by a certificate of rating from the Iowa department of agriculture and land stewardship or local restaurant inspection unit.

~~43.1(17)~~ **43.1(16)** The district department shall have written policies and procedures that are consistent with risk reduction for recommending ~~the~~ removal and revocation of resident status at the facility.

~~43.1(18)~~ **43.1(17)** The district department shall have written policies and procedures for discharge from the facility and which require a recommendation for discharge when it is clear that the resident has met the requirements of the court, is no longer believed to be a threat to the community, or cannot benefit substantially from further supervision.

~~43.1(19)~~ **43.1(18)** The district department shall have written policies and procedures which ensure ~~that a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory Revised (LSI-R), CMC/Jesness and Case File Audit System. The district department shall the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to focus the majority of resources on moderator-moderate- and high-risk offenders clients and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.~~

~~43.1(20)~~ Rescinded IAB 12/8/04, effective 1/12/05.

This rule is intended to implement Iowa Code section 907.3 and chapters 905, 908 and 910.

ITEM 45. Amend rule 201—44.1(904) as follows:

201—44.1(904) Administration.

44.1(1) No change.

CORRECTIONS DEPARTMENT[201](cont'd)

44.1(2) Facility requirements.

a. The facility staff shall ~~assure~~ ensure the provision and maintenance of a safe environment for the residents. Each facility shall comply with fire, building, health and safety regulations or standards applicable in the local jurisdiction.

b. The district department shall have written policy which ensures that at least one staff member is ~~awake, dressed and~~ readily available to residents 24 hours a day in each work release facility.

c. to e. No change.

f. The district departments shall have ~~uniform~~ written policies and procedures for the ~~inventory and recording control~~ of a work release resident's property.

g. and h. No change.

i. The district departments shall have written policies and procedures which establish compliance with all federal PREA standards.

44.1(3) Admission.

a. The district departments shall admit residents in accordance with ~~a contract~~ the purchase of service agreement with the department of corrections or federal correctional agencies.

b. At the time of intake, the facility staff shall discuss with each resident program goals, services available, rules governing conduct in the facility, disciplinary procedures, client fiscal management and residents' responsibilities, rights, ~~and~~ communication privileges, and all federal PREA orientation and education standards and shall obtain written documentation from the resident that these matters were discussed.

44.1(4) No change.

44.1(5) Records.

a. No change.

b. The district departments shall maintain a case record for each client under supervision which shall include, when applicable, the following: (1) Identification data, (2) institutional information packet, (3) case plan, (4) restitution plan, (5) work release plans, (6) ~~chronological records~~ generic notes, (7) disciplinary reports, (8) hold orders, (9) transfer reports, (10) parole progress reports, (11) signed release of information forms, ~~(12) inventory sheets,~~ and ~~(13)~~ (12) discharge reports.

Written procedures shall exist at the facility concerning the security, maintenance, accessibility, closure and destruction of said case records.

c. The district department shall have uniform written policies and procedures which ensure ~~that a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory Revised (LSI-R), CMC/Jesness and Case File Audit System.~~ The district department shall the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to focus the majority of resources on moderate- and high-risk offenders clients and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.

~~d. The district department shall have written policies and procedures which ensure that a case auditing system is developed and utilized according to established auditing standards which shall include the CMC Audit System and a Case File Audit System.~~

ITEM 46. Amend rule 201—44.2(904) as follows:

201—44.2(904) Provision of services.

44.2(1) No change.

44.2(2) Food service.

CORRECTIONS DEPARTMENT[201](cont'd)

a. The district department shall have policies and procedures which ~~assure~~ ensure that all work release residents have access to three meals a day during the week and two meals on weekend days and that meals provided at the work release facility meet recognized minimum daily nutritional requirements.

b. The district department shall have written policies which ensure that if food service is provided, all facilities including kitchen equipment and food handlers comply with applicable health and safety laws and regulations as evidenced by a certificate of rating from the Iowa department of agriculture and land stewardship or local restaurant inspection unit.

44.2(3) Medical service.

a. The district department shall ~~provide~~ refer for a medical examination of any work release resident suspected of having a communicable disease, which safeguards both residents and employees. Employees who contract a communicable disease, except common colds, should not be permitted to work in a facility until the danger of contagion is ended. For purposes of this rule, communicable disease shall mean any disease which is transmittable from one person to another and is either temporarily or permanently debilitating.

b. and *c.* No change.

d. ~~All personnel shall furnish a statement from a valid medical practitioner or registered nurse prior to starting employment, stating that they are in good health, able to perform the duties required and free from any communicable disease that could reasonably be determined to represent a public health hazard. In compliance with Iowa Code section 905.15, the district department shall have written policies and procedures to prevent the transmission of contagious infectious disease. Notification to facility personnel is required if any person committed to the facility is found to have a contagious infectious disease.~~

44.2(4) Visitation. The district department shall have written policies and procedures which provide for visitation, but visiting privileges may be limited to the extent necessary for security and management reasons.

44.2(5) No change.

ITEM 47. Amend rule 201—44.3(910) as follows:

201—44.3(910) Restitution.

44.3(1) Restitution plan of payment. ~~There~~ The district departments shall be a have a policy and procedure for restitution plan of payment developed on those work releasees who have been court ordered to pay restitution unless the court ordered restitution plan of payment has been completed. Factors which must be considered in developing the restitution plan of payment are: The restitution policy and procedure shall be administered in accordance with local judicial procedure and the Code of Iowa.

a. ~~Present income/employment~~

b. ~~Physical/mental health~~

c. ~~Education~~

d. ~~Financial situation~~

e. ~~Family circumstances~~

The district department shall have written policies and procedures governing the development and modification of the restitution plan of payment. Final approval of the restitution plan of payment shall be by the district director.

The approved restitution plan of payment shall be forwarded to the appropriate clerk of court by the district department or to the person responsible for collection if collections are performed by the district department.

44.3(2) Compliance.

a. and *b.* No change.

CORRECTIONS DEPARTMENT[201](cont'd)

c. The district department ~~will~~ shall provide statements to the appropriate clerks of court when community service is ordered in lieu of financial restitution.

ITEM 48. Amend rule 201—44.6(904) as follows:

201—44.6(904) Violations.

44.6(1) *Preplacement violations.* When disciplinary problems occur with residents who have been approved for work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the board of parole. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, ~~the community services division~~ or the sending institution.

44.6(2) No change.

44.6(3) *Request for temporary custody.* Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the resident is considered dangerous, likely to flee or in serious violation of the work release program. The requests shall be consistent with department of corrections policy.

44.6(4) to 44.6(6) No change.

44.6(7) *Special transfers.* Transfers from one facility to another or from a facility to ~~the~~ a designated Iowa ~~medical and~~ classification center may be allowed in special circumstances with the approval of the department of corrections.

ITEM 49. Amend rule 201—44.9(904,910) as follows:

201—44.9(904,910) Home work release. Pursuant to Iowa Code section 904.901, home work release provides the opportunity in exceptional circumstances for qualified ~~offenders~~ clients of correctional institutions to return to their homes ~~and care for dependent children under the age of 18.~~

44.9(1) *Administration.*

a. No change.

b. *Housing requirements.* The physical structure shall provide for adequate space, meet basic sanitary requirements and be in good repair. A functional telephone will be ~~maintained~~ available to the client in the residence at all times. The residence shall not be occupied by persons outside the nuclear family except in rare instances where financial considerations are a factor and prior approval has been granted by the board of parole or the deputy director.

c. to e. No change.

f. *Records.*

(1) No change.

(2) The district department shall maintain a case record for each home work releasee under supervision which shall include, when applicable, the following:

1. Identification date,
2. Institutional information packet,
3. Case plan,
4. Restitution plan,
5. Work release plans,
6. ~~Chronological records~~ Generic notes,
7. Disciplinary reports,
8. Hold orders,
9. Transfer reports,
10. Parole progress reports,
11. Signed release of information forms, and
- ~~12. Inventory sheets, and~~
- ~~13.~~ 12. Discharge reports.

The district department shall have written procedures concerning the security, maintenance, accessibility, closure and destruction of said case records.

CORRECTIONS DEPARTMENT[201](cont'd)

(3) The district departments shall have written policies and procedures which ensure that an individual case plan is maintained on each work release resident which includes ~~an~~ a uniform, validated assessment of client needs risk, protective factors, and resources utilized to meet those needs.

44.9(2) No change.

44.9(3) *Home work releasee finances.* The home work releasee shall assume total financial responsibility, including medical expenses, for ~~their~~ releasee care and the care of ~~their~~ the releasee's minor dependent children. Neither the department of corrections nor the district department shall incur any expense on the part of the home work releasee or dependents.

44.9(4) *Violations.*

a. Preplacement violations. When disciplinary problems occur with ~~offenders~~ clients who have been approved for home work release but not yet placed, designated staff shall determine whether or not the situation is serious enough to warrant further review by the board of parole. Designated staff herein shall mean authorized persons from the judicial district department of correctional services, the community services division or the sending institution.

b. No change.

c. Requests for temporary custody. Requests for temporary custody in a county jail or municipal holding facility may be issued by an authorized staff person of the district department of correctional services, in those cases where the home work releasee is considered dangerous, likely to flee or in serious violation of the work release program and shall be consistent with department of corrections policy.

d. to g. No change.

44.9(5) No change.

ITEM 50. Amend rule 201—45.1(906) as follows:

201—45.1(906) Administration.

45.1(1) *Supervision.* Persons committed to the director of the department of corrections and granted parole by the Iowa board of parole shall be supervised by the judicial district departments of correctional services. The district departments shall impose conditions of parole as contained in rule 201—45.2(906).

45.1(2) *Effective date/parole agreement.*

a. Parole is effective only upon the acceptance of the terms of parole as evidenced by the signing of the standard parole agreement form by the parolee before a district department employee. ~~In the event that emergency procedures are effected to reduce the institutional population, institutional staff shall authorize a temporary agreement by having the offender sign the standard form prior to leaving the institution. The temporary agreement shall be forwarded to the supervising parole agent who may revise the agreement in accordance with rule 45.2(906).~~ The parole agreement shall be issued only upon the written order of the board of parole and shall not be issued prior to the establishment of an approved parole plan. The parolee may not be released on parole prior to the execution of the parole agreement. The parole agreement shall contain the conditions of parole pursuant to rule 201—45.2(906) and shall contain the parolee's reporting instructions.

b. The district department shall have written uniform policies and procedures which ensure ~~that a case auditing system is developed and utilized according to established auditing standards which shall include a Level of Service Inventory-Revised (LSI-R), CMC/Jesness and Case File Audit System.~~ The district department shall the use of the statewide case management system to ensure so that offender client risk, and criminogenic needs and protective factors are identified using the approved uniform and validated risk/needs assessment instruments and are addressed in an effort to lower risk and reduce victimization. The system should be designed to focus the majority of resources on moderate- and high-risk ~~offenders~~ clients and shall include the following elements: ongoing risk and need assessment, responsivity, case planning, case plan follow-up and documentation, transfer of records, staff training, and continuous quality assurance improvement. ~~Districts shall ensure that all case management staff, i.e., staff whose job duties include administering the LSI-R or using the LSI-R to develop case plans, become certified to administer and score the LSI-R.~~

CORRECTIONS DEPARTMENT[201](cont'd)

c. The district department shall have written policies and procedures to ensure the delivery of parole services which are consistent with statewide policy and expectations.

45.1(3) and 45.1(4) No change.

45.1(5) *Parole release funds.* ~~Offenders~~ Clients approved for parole will receive clothing or a clothing allowance, money and transportation in accordance with the provisions of Iowa Code section 906.9.

45.1(6) to 45.1(8) No change.

45.1(9) *Parole relief fund.* ~~Rescinded IAB 10/2/91, effective 9/13/91.~~

ITEM 51. Amend rule 201—45.2(906) as follows:

201—45.2(906) Conditions of parole.

45.2(1) *Standard conditions.* ~~The following are standard conditions of parole supervision applicable to all parolees. The district department shall have all persons on parole sign conditions of parole that are consistent with the standard conditions as established and approved by the board of parole. Standard conditions are applicable to all parolees.~~

a. ~~The parolee shall obey all federal, state and local laws and ordinances.~~

b. ~~In the event of any arrest or citation, the parolee shall notify the district department of the arrest or citation within 24 hours.~~

c. ~~The parolee shall secure and maintain employment as approved by the district department. The parolee shall obtain advance permission from the district department before changing or quitting a job. If the parolee is fired or laid off, the parolee shall notify the district department within 24 hours. If the parolee is unemployed, every effort shall be made to obtain employment, and such efforts shall be reported to the district department as directed.~~

d. ~~The parolee will be restricted to the county of residence unless prior permission to travel has been granted by the district department or otherwise in accordance with the parole agreement. The parolee will secure advance written permission which may be a part of the parole agreement, from the district department before traveling outside the state of residence.~~

e. ~~The parolee shall obtain prior permission from the district department before changing residence.~~

f. ~~The parolee shall maintain contact with the district department as directed by the district department or the department of corrections.~~

g. ~~The parolee shall maintain and, upon request, present proof of adequate liability insurance or proof of financial responsibility and a valid driver's license before owning or operating a motor vehicle.~~

h. ~~The parolee shall not own, possess, use or transport firearms or other dangerous weapons or imitation thereof.~~

i. ~~The parolee shall cooperate in any treatment/rehabilitation/monitoring program as specified by the district department.~~

j. ~~The parolee will make payments as directed by the restitution plan of payment.~~

45.2(2) *Special conditions.* Special conditions may be imposed at any time and shall only be imposed in accordance with the needs of the case as determined by the judicial district department of corrections, the department of corrections or the Iowa board of parole. Special conditions shall be handled in the following manner.

a. *Deletions.* ~~Immediately following the~~ When a condition is being deleted, the deletion shall be clearly noted on all copies of the parole agreement. Both the parolee and district department staff shall sign the notation of deletion including the date of the deletion and shall upload the updated agreement into the appropriate Iowa corrections offender network (ICON) module(s). The district supervisor, district director or designee and the board of parole shall be immediately informed of the deletion in writing notified of those deletions required by local policy and board of parole administrative rules.

b. *Additions.* Additional conditions may be imposed. ~~The~~ When a condition(s) is added, the additional conditions condition(s) shall be clearly indicated on all copies of the parole agreement and shall be signed and dated by the parolee and the supervising agent, and the updated agreement shall

CORRECTIONS DEPARTMENT[201](cont'd)

be uploaded into the appropriate ICON module(s). The ~~department of corrections~~ district director or designee and the parole board shall be notified of additional ~~conditions~~ condition(s) in writing.

ITEM 52. Amend subrule 45.4(1) as follows:

45.4(1) Offenses. The district department may at any time report violations of the conditions of parole to the board of parole.

Within ~~ten calendar~~ five business days of receipt of knowledge of the commission of ~~certain~~ required reportable violations, ~~listed below~~ as designated by the board of parole, the supervising officer shall make written report to the board of parole of the violations. ~~The report shall include a recommendation or revoke parole or continue the person on parole. When the subject of the report is the commission of a new offense, the supervising officer may withhold recommendation until disposition of the charges in district court.~~

a.—~~Violation of any federal or state law; simple misdemeanors need not be reported.~~

b.—~~Any violent or assaultive conduct.~~

c.—~~Possession, control, or use of any firearms, imitation firearm, explosives, or weapons as defined in federal or state statutes.~~

d.—~~Sale, possession, continual or problem use, transportation or distribution of any narcotic or other controlled substance, or repeated excessive use of alcohol by the parolee.~~

e.—~~A parolee whose whereabouts are unknown and has been unavailable for contact for 30 days, or reliable information has been received indicating that the parolee is taking flight or absconding.~~

f.—~~Any behavior indicating the parolee may be suffering from a mental disorder which impairs the parolee's ability to function in the community or which makes the parolee a danger to self or others when the mental disorder cannot be adequately treated while in the community.~~

g.—~~Any other conduct or pattern of conduct in violation of the conditions of parole deemed sufficiently serious by the parole officer. The parole officer or supervisor is authorized to dispose of any other parolee misconduct not required to be reported above.~~

ITEM 53. Amend rule 201—45.5(906) as follows:

201—45.5(906) Voluntary return to institution. A parolee may ~~be returned~~ return to an Iowa department of corrections institution for a period not to exceed 90 days for treatment or further training, provided a voluntary return agreement is approved and signed by the district department and the warden ~~or superintendent~~ of said institution ~~and is signed by them~~ and by the parolee prior to the return. A parolee's voluntary return to the institution will also require a hearing with the parole board administrative law judge.

ITEM 54. Amend rule 201—45.6(906) as follows:

201—45.6(906) Discharge from parole. The parole officer shall make application for discharge to the district director following the parolee's satisfactory adjustment under supervision and upon the parole officer's determination that the parolee is able and willing to perform in a law-abiding fashion without further supervision. Discharge from parole may be granted prior to expiration of sentence, except for persons convicted for violation of Iowa Code section 709.3, 709.4 or 709.8, on or with a child. Such persons shall not be discharged until expiration of maximum sentence. Discharge granted by the district director shall terminate the person's sentence.

45.6(1) Recommendation. The recommendation for discharge from parole as submitted by the supervising officer shall include, but not be limited to, the following:

a. Parolee's ~~attitude and~~ adjustment to parole supervision.

b. to *e.* No change.

f. The reasons why the discharge is appropriate, based on the consideration of the parolee's level of risk.

45.6(2) Upon discharge, the parole officer shall give the discharged parolee the standard ~~form~~ information to be completed and submitted if the ex-parolee seeks restoration of citizenship rights. If the ex-parolee seeks restoration within 60 days of discharge, the parole agent shall recommend for or

CORRECTIONS DEPARTMENT[201](cont'd)

against the restoration. The standard ~~form~~ information shall be forwarded to the board of parole by the person seeking the restoration.

Under no circumstances shall parole supervision extend beyond the expiration of a parolee's sentence. (Iowa Code section 906.15)

45.6(3) No change.

ITEM 55. Adopt the following new rule 201—45.8(905):

201—45.8(905) Infectious disease. In compliance with Iowa Code section 905.15, the district department shall have a written policy and procedure to prevent the transmission of contagious infectious disease.

ITEM 56. Amend rule 201—47.1(904) as follows:

201—47.1(904) OWI facilities.

47.1(1) ~~Offenders~~ Clients convicted of an offense under Iowa Code chapter 321J, sentenced to the custody of the director of corrections, and assigned to a continuum of programming, including treatment providers, residential facilities and institutions, for the supervision and treatment of ~~offenders~~ clients shall be subject to the provisions of these rules and policies developed by the department of corrections.

47.1(2) The district department shall select appropriate facilities and treatment providers subject to the approval of the department of corrections, for the risk management and programming of ~~offenders~~ clients defined in this chapter.

47.1(3) Any facility operated by a district department directly or through a contract shall comply with the provisions of 201—Chapters 40 and 43 and policies developed by the department of corrections to include all federal PREA standards.

47.1(4) and **47.1(5)** No change.

~~**47.1(6)** Any facility operated in whole or in part under the provisions of this chapter shall review and consider the American Corrections Association Standards for Adult Community Residential Facilities.~~

~~**47.1(7)**~~ **47.1(6)** The district director is responsible for all programs and ~~offenders~~ clients that are subject to these rules and will develop consistent policies and procedures. Any change in the custody status of ~~offenders~~ clients shall be approved by the department of corrections in consultation with a district department official.

ITEM 57. Amend rule 201—47.2(904) as follows:

201—47.2(904) Movement of offenders clients.

47.2(1) The judicial district departments of correctional services and the department of corrections shall utilize standardized placement criteria founded on the presumption that assignment will be made to the least restrictive and most cost-effective component of the continuum for the purposes of risk management, substance abuse treatment, education, and employment. The continuum is defined as consisting of three basic components, namely (1) incarceration until released by the board of parole or expiration of sentence, (2) short-term incarceration for approximately ~~24~~ 60 days with subsequent transfer to a community corrections OWI residential program with differential levels of treatment and intervention, and (3) direct placement to a community corrections OWI residential program with differential levels of treatment and intervention. The criteria established to determine continuum assignment consists of the ~~offender's~~ client's previous criminal record, present charges and attitude toward treatment.

47.2(2) When there is insufficient bed space in the community-based correctional program to accommodate the ~~offender~~ client, the court may order the ~~offender~~ client to be released on personal recognizance or bond, released to the supervision of the judicial district department of correctional services, or held in jail.

47.2(3) Priority for placement in the treatment program ~~will~~ shall be based on the date of sentence unless an exception is made by the department of corrections or district department for special circumstances.

CORRECTIONS DEPARTMENT[201](cont'd)

47.2(4) When the ~~offender~~ client is sentenced to the director of the department of corrections and ordered to the supervision of the judicial district and space is not available in a community program, or supervision concerns arise, the district director or designee may request temporary placement at the Iowa Medical and Classification Center (IMCC)/Iowa Correctional Institution for Women (ICIW) for classification and assignment. Final approval is granted by the ~~regional~~ deputy director of community-based corrections or designee until space is available in the community program.

47.2(5) If medical conditions prohibit program participation and community resources, including University Hospitals, are not available to sufficiently meet ~~offender~~ client needs, the ~~offender~~ client may be assigned with the approval of the deputy director of ~~offender services~~ community-based corrections or designee to the Iowa Medical and Classification Center at ~~Oakdale~~ (IMCC)/Iowa Correctional Institution for Women (ICIW) for treatment until the ~~offender's~~ client's health status permits placement into a community-based correctional program.

47.2(6) The transfer of ~~offenders~~ clients placed with the department of corrections to community facilities may be delayed by the department of corrections for security or medical reasons. ~~Offenders~~ Clients with active detainers or ~~offenders~~ clients refusing to participate in the program may be transferred to an institution.

47.2(7) ~~Offenders~~ Clients placed with the department of corrections shall ~~be transferred in typically transfer out of~~ custody to their assigned facility unless an exception is ~~approved~~ required by the department of corrections.

47.2(8) The district department shall comply with established policies and develop procedures for the temporary confinement of ~~offenders~~ clients who present a threat to the safety or security of the public, facility staff, or residents.

47.2(9) ~~Offenders~~ Clients housed in community facilities may be transferred to the Iowa Medical and Classification Center (IMCC) or the Iowa Correctional Institution for Women (ICIW) on the recommendation of the district director or designee and with the approval of the ~~regional~~ deputy director of community-based corrections or designee for reclassification and assignment to an institution. Transfer recommendations may be made for security, disciplinary, treatment, medical, or legal reasons.

47.2(10) The district department shall maintain a current contingency plan to ensure the continuation of programs or custody of ~~offenders~~ clients in the event of an emergency such as fire, tornado, chemical spill, or work stoppage.

47.2(11) ~~Offenders~~ Clients who have been housed in a community facility for substance abuse treatment, subsequently granted parole or work release, and said parole or work release is revoked, may be returned to the OWI Continuum, ~~if eligible~~, or returned to the designated classification center for reclassification and placement in an institution.

ITEM 58. Amend rule 201—47.3(904) as follows:

201—47.3(904) Fiscal.

47.3(1) and **47.3(2)** No change.

47.3(3) The district department shall not enter into a subcontract for custody or treatment of ~~offenders~~ clients without the written approval of the ~~regional~~ deputy director of community-based corrections.

a. to d. No change.

47.3(4) The district department shall maintain a schedule of daily fees to be assessed to ~~offenders~~ clients.

47.3(5) ~~Offenders~~ Clients may not be denied services due to an inability to pay the daily fee.

47.3(6) The district department shall comply with established policies and develop procedures which require that all ~~offenders~~ clients surrender their earnings to facility staff for the purpose of financial management and savings. Those policies and procedures shall provide for the proper accounting and disbursement of all ~~offender~~ client funds including, but not limited to, deduction of a daily fee where appropriate.

47.3(7) Upon request by the district director or designee, the county shall provide temporary confinement of ~~offenders~~ clients allegedly violating the conditions of the assignment to a treatment

CORRECTIONS DEPARTMENT[201](cont'd)

program. The department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of offenders clients.

47.3(8) A county holding offenders clients ordered to jail due to insufficient space in a community-based corrections program will be reimbursed by the department of corrections.

47.3(9) If ~~an offender~~ a client escapes or participates in an act of absconding from the facility to which the offender client is assigned, the offender client shall reimburse the department of corrections for the cost of transportation.

ITEM 59. Amend rule 201—47.4(904) as follows:

201—47.4(904) Program structure.

47.4(1) The district department shall provide 24-hour housing and supervision of offenders clients either directly or through a contract with other agencies or individuals.

47.4(2) Each offender client shall sign a supervision agreement approved by the department of corrections. Failure to sign said agreement or abide by the requirements therein shall constitute reason to recommend returning the offender client to an institution.

47.4(3) The district department shall ensure that all offenders clients are involved in an appropriate continuum of programming which has been approved by the department of corrections.

47.4(4) No change.

47.4(5) The district department shall ensure, to the extent possible, that all offenders capable clients are employed a minimum of 30 hours per week.

47.4(6) The district department shall comply with established policies and procedures to allow offenders clients to leave the facility for treatment, employment, and food service when those activities are not provided at the facility. In all other circumstances, offenders clients may only leave the facility without supervision in accordance with department of corrections furlough procedures.

47.4(7) The district department, or subcontractor, shall utilize the department of corrections policies and procedures concerning offender client discipline.

47.4(8) ~~The Each~~ district department shall ~~comply with established~~ have policies and ~~develop~~ procedures ~~to ensure development and modification of~~ for a restitution plan of payment for each offender client entering the program. Said ~~plan~~ policies and procedures shall comply with the Code of Iowa Code chapter 910 and local judicial procedure. Restitution payments shall be an integral part of each offender's client's financial management.

47.4(9) The district department shall comply with established policies and develop procedures to ensure that the offenders clients who are identified as needing continuing care receive follow-up treatment according to their identified needs. ~~An offender~~ The client will receive correctional supervision following release from the facility unless the offender's client's sentence has legally expired.

47.4(10) The district department shall have written policies and procedures which govern the medical care of OWI offenders clients in case of emergencies, sudden illnesses, accidents, or death.

47.4(11) The district department shall comply with established policies and develop procedures to ensure that a ~~written summary of the offender's progress in the program is~~ report of violations and a transfer classification decision are completed timely on all offenders clients who fail to satisfactorily complete the program and are placed who are being recommended for placement at the Iowa Medical and Classification Center/Iowa Correctional Institution for Women. ~~Said report shall be forwarded to the Iowa Medical and Classification Center immediately following termination from the program.~~

47.4(12) The district department shall comply with established policies and develop procedures and criteria for recommending parole from the facility which shall include the completion of a department of corrections approved continuum of programming. ~~The recommendation for parole shall specify the treatment hours completed and document that maximum benefits have been received. When physically able, the offender must demonstrate a satisfactory work record for at least 90 days. This requirement may be reduced by the department of corrections when justification exists.~~

47.4(13) Each offender client shall be awarded earned time in accordance with department of corrections policies and procedures. The district director or designee may recommend the loss of earned time pursuant to the same policy.

CORRECTIONS DEPARTMENT[201](cont'd)

47.4(14) The district department shall comply with established policies and develop procedures which provide for visitation of ~~offenders~~ clients. However, visiting privileges may be limited to the extent necessary for treatment, security, or management reasons.

47.4(15) Reserved.

47.4(16) No change.

47.4(17) The district department shall comply with established policies and develop procedures for addressing an escape when an offender a client is absent from the facility without authorization or there is probable cause to believe the ~~offender~~ client is taking flight or involved in criminal activity.

ITEM 60. Amend rule 201—50.3(356,356A) as follows:

201—50.3(356,356A) Inspection and compliance. The chief jail inspector or authorized representatives shall visit and inspect each jail within this state at least annually to determine the degree of compliance with these standards and within 45 days of each inspection shall report the results to the sheriff and the governing body responsible for the facility.

~~If a residential facility is operated by a judicial district department of correctional services, the regional deputy director of the department of corrections and the regional deputy director's personnel shall be responsible for all inspections and approvals and shall have the same powers as the members of the jail inspection unit in carrying out these rules.~~

50.3(1) to 50.3(3) No change.

This rule is intended to implement Iowa Code sections 17A.10, 17A.12 and 356.43.

ITEM 61. Amend subrule 50.19(1) as follows:

50.19(1) Prisoner mail.

a. to c. No change.

d. Privileged correspondence if so marked may be opened only in the presence of the prisoner and then only to detect the presence of contraband; it may not be read except by the prisoner. Privileged correspondence is defined as incoming and outgoing mail to or from:

- (1) An attorney;
- (2) A judge;
- (3) The governor of Iowa;
- (4) The ~~citizen's aide office~~ ombudsman office;
- (5) A member of the state or federal legislature.

e. No change.

ITEM 62. Rescind and reserve rule **201—50.23(356,356A)**.

ITEM 63. Amend rule 201—51.3(356,356A) as follows:

201—51.3(356,356A) Inspection and compliance. The chief inspector or authorized representatives shall visit and inspect each facility within this state at least annually to determine the degree of compliance with these standards and within 45 days of each inspection shall report the results to the temporary holding facility administrator and the governing body responsible for the facility. ~~If a residential facility is operated by a judicial district department of correctional services, the regional deputy director of the department of corrections and the regional deputy director's personnel shall be responsible for all inspections and approvals and shall have the same powers as the members of the inspection unit in carrying out these rules.~~

51.3(1) to 51.3(3) No change.

This rule is intended to implement Iowa Code sections 17A.10, 17A.12 and 356.43.

ITEM 64. Adopt the following new subrule 51.16(5):

51.16(5) Detainee mail.

a. Detainees held beyond 24 hours shall be furnished a reasonable amount of writing materials upon request. Jail officials may prohibit a detainee from corresponding with a person who states in

CORRECTIONS DEPARTMENT[201](cont'd)

writing that the person does not want to correspond with the detainee. This mail restriction does not include a "prior approval" list.

b. A reasonable amount of postage shall be provided to indigent detainees who are held beyond 24 hours for communication with the courts and for at least two letters per week of a personal nature when other means of communication are not available.

c. General correspondence may be opened and inspected; it may be read for security reasons if the detainee is notified of this procedure.

d. Privileged correspondence if so marked may be opened only in the presence of the detainee and then only to detect the presence of contraband; privileged correspondence may not be read except by the detainee. Privileged correspondence is defined as incoming and outgoing mail to or from:

- (1) An attorney;
- (2) A judge;
- (3) The governor of Iowa;
- (4) The ombudsman office;
- (5) A member of the state or federal legislature.

e. Written policy, procedure, and practice require that, excluding weekends and holidays, incoming and outgoing letters be held for no more than 24 hours and packages be held for no more than 48 hours for inspection before delivery to the detainee or post office.

ARC 3808C

IOWA PUBLIC INFORMATION BOARD[497]

Notice of Intended Action

Proposing rule making related to petitions and advisory opinions and providing an opportunity for public comment

The Iowa Public Information Board hereby proposes to amend Chapter 1, "Organization and Administration," Chapter 3, "Declaratory Orders," and Chapter 5, "Petitions for Rule Making," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 23.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 21 and 22.

Purpose and Summary

This rule making proposes amendments that are the result of the five-year review of the Board's rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 12, 2018. Comments should be directed to:

Margaret Johnson
 Iowa Public Information Board
 Wallace State Office Building
 502 East 9th Street
 Des Moines, Iowa 50319
 Fax: 515.725.1789
 Phone: 515.725.1783
 Email: margaret.johnson@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 1.2(1) as follows:

1.2(1) Jurisdiction. The board will only accept requests for and issue advisory opinions pertaining to Iowa Code chapters 21 and 22, or rules adopted thereunder. The board shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

ITEM 2. Amend rule 497—3.1(17A) as follows:

497—3.1(17A) Petition for declaratory order. Any person may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board, at Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Petitions may also be filed by fax at (515)725-1789 or by email at ipib@iowa.gov. A petition is deemed filed when it is received by that office. The board shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA PUBLIC INFORMATION BOARD

Petition by (Name of Petitioner) for a Declaratory Order on (Cite provisions of law involved).	PETITION FOR DECLARATORY ORDER
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IOWA PUBLIC INFORMATION BOARD[497](cont'd)

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by rule 497—3.7(17A).

The petition must be dated and signed by the petitioner or the petitioner’s representative. It must also include the name, mailing address, email address, and telephone number of the petitioner and the petitioner’s representative and a statement indicating the person to whom communications concerning the petition should be directed.

ITEM 3. Amend subrule 3.3(3) as follows:

3.3(3) A petition for intervention shall be filed at Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Petitions may also be filed by fax at (515)725-1789 or by email at ipib@iowa.gov. Such a petition is deemed filed when it is received by that office. The board will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

IOWA PUBLIC INFORMATION BOARD

Petition by (Name of Original Petitioner) for a Declaratory Order on (Cite provisions of law cited in original petition).	PETITION FOR INTERVENTION
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The petition for intervention must provide the following information:

1. Facts supporting the intervenor’s standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor’s interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

IOWA PUBLIC INFORMATION BOARD[497](cont'd)

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, email address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

ITEM 4. Amend rule 497—5.1(17A), introductory paragraph, as follows:

497—5.1(17A) Petition for rule making. Any person or agency may file a petition for rule making with the board at Iowa Public Information Board, Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319. Petitions may also be filed by fax at (515)725-1789 or by email at ipib@iowa.gov. A petition is deemed filed when it is received by the board. The board must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the board an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

ITEM 5. Amend subrule 5.1(1) as follows:

5.1(1) The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, email address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

ARC 3807C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rule making related to boilers and pressure vessels and providing an opportunity for public comment

The Boiler and Pressure Vessel Board hereby proposes to amend Chapter 84, "Contested Cases Before the Boiler and Pressure Vessel Board," Chapter 90, "Administration of the Boiler and Pressure Vessel Program," and Chapter 91, "General Requirements for All Objects," and to rescind Chapter 95, "Water Heaters," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 89.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 89.

Purpose and Summary

These proposed amendments would align the rules with statutory authority, update consensus standards adopted by reference, clarify where jurisdiction over boiler appurtenances ends, and make corrections to the rules.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

LABOR SERVICES DIVISION[875](cont'd)

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 81.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on June 13, 2018. Comments should be directed to:

Kathleen Uehling
Division of Labor Services
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Email: kathleen.uehling@iwd.iowa.gov

Public Hearing

If requested in accordance with Iowa Code section 17A.4(1)“b” by the close of business on June 12, 2018, a public hearing at which persons may present their views orally or in writing will be held as follows:

June 13, 2018
9 a.m.

150 Des Moines Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs by calling 515.725.5615.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 875—84.2(17A,89) as follows:

875—84.2(17A,89) Appeal to the board. The commissioner's ruling on a petition for reconsideration or the commissioner's deemed denial of a petition for reconsideration may be appealed to the board. An appeal must be filed in writing with the board within 30 calendar days of the earlier of either the issuance of the commissioner's written ruling on a petition for reconsideration or the commissioner's deemed denial of a petition for reconsideration. At a minimum, an appeal shall include a short and concise statement of the basis for the appeal. The required form for an appeal is available on the board's website at <http://www.iowaworkforce.org/labor/boilerboard.htm> [iowaboilers.gov](http://www.iowaboilers.gov). Consideration of an appeal of a ruling on a petition for reconsideration shall be a contested case proceeding subject to the provisions of

LABOR SERVICES DIVISION[875](cont'd)

Iowa Code chapter 17A. The commissioner shall have an automatic right of intervention in any appeal of the ruling on petition for reconsideration and shall defend the ruling in a contested case proceeding.

ITEM 2. Amend rule 875—90.1(89) as follows:

875—90.1(89) Purpose and scope. These rules institute administrative and operational procedures for implementation of Iowa Code chapter 89. An object shall not be considered “under pressure” and shall not be within the scope of Iowa Code chapter 89 when there is clear evidence that the manufacturer did not intend it to be operated at more than 3 psi and the object is operating at 3 psi or less. Jurisdiction is limited to objects, appurtenances, controls, safety devices, and equipment rooms as required by Iowa rules.

ITEM 3. Adopt the following **new** definitions of “Appurtenance” and “Boiler external piping” in rule **875—90.2(89,261,252J,272D)**:

“*Appurtenance*” means any item or equipment that is attached to the object and is part of the boiler external piping.

“*Boiler external piping*” means all boiler piping and components as set forth in the Scope of the edition of ASME B31.1 currently adopted by reference in Chapter 91.

ITEM 4. Rescind and reserve subparagraph **90.11(1)“a”(1)**.

ITEM 5. Amend subrule 91.1(1) as follows:

91.1(1) ASME boiler and pressure vessel codes adopted by reference. The ASME Boiler and Pressure Vessel Code (~~2015~~) (2017) is adopted by reference. Regulated objects shall be designed and constructed in accordance with the ASME Boiler and Pressure Vessel Code (~~2015~~) (2017) except for objects that meet one of the following criteria:

- a. An object with an ASME stamp and National Board Registration that establish compliance with an earlier version of the ASME Boiler and Pressure Vessel Code;
- b. ~~An object within the scope of 875—Chapter 95;~~
- e. ~~Rescinded IAB 10/5/11, effective 11/9/11.~~
- d. b. A miniature boiler installed before March 31, 1967;
- e. c. A power boiler or unfired steam pressure vessel installed before July 4, 1951; or
- f. d. A steam heating boiler, hot water heating boiler, or hot water supply boiler installed before July 1, 1960.

ITEM 6. Amend subrules 91.1(3) to 91.1(10) as follows:

91.1(3) Inspection code adopted by reference. The National Board Inspection Code (~~2015~~) (2017) is adopted by reference, and reinstallations, installations, alterations, and repairs after ~~April 1, 2016~~ September 1, 2018, shall comply with it.

91.1(4) Electric code adopted by reference. The National Electrical Code (2014) (2017) is adopted by reference, and reinstallations and installations after ~~April 1, 2016~~ September 1, 2018, shall comply with it.

91.1(5) Piping codes adopted by reference. The Power Piping Code, ASME B31.1 (2014) (2016), and the Building Services Piping Code, ASME B31.9 (2014) (2017), are adopted by reference, and reinstallations and installations after ~~May 20, 2015~~ September 1, 2018, shall comply with them up to and including the first valve.

91.1(6) Control and safety device code adopted by reference. Controls and Safety Devices for Automatically Fired Boilers (CSD-1) (~~2012~~) (2015) is adopted by reference, and reinstallations and installations after ~~October 31, 2013~~ September 1, 2018, shall comply with it. Reporting requirements concerning CSD-1 are set forth at rule 875—90.11(89).

91.1(7) Mechanical code adopted by reference. Excluding Section 701.1, Chapters 2 and 7 of the International Mechanical Code (IMC) (~~2015~~) (2018) are adopted by reference, and installations and reinstallations after ~~April 1, 2016~~ September 1, 2018, shall comply with them.

LABOR SERVICES DIVISION[875](cont'd)

91.1(8) *Oil burning equipment code adopted by reference.* National Fire Protection Association Standard for the Installation of Oil Burning Equipment, NFPA 31 (~~2011~~) (2016), is adopted by reference, and installations and reinstallations after ~~October 10, 2012~~ September 1, 2018, shall comply with it.

91.1(9) *Fuel gas code adopted by reference.* National Fire Protection Association National Fuel Gas Code, NFPA 54 (~~2015~~) (2018), is adopted by reference, and installations and reinstallations after ~~April 1, 2016~~ September 1, 2018, shall comply with it.

91.1(10) *Liquefied petroleum gas code adopted by reference.* National Fire Protection Association Liquefied Petroleum Gas Code, NFPA 58 (~~2014~~) (2017), is adopted by reference, and installations and reinstallations after ~~April 1, 2016~~ September 1, 2018, shall comply with it.

ITEM 7. Rescind and reserve rule **875—91.3(89)**.

ITEM 8. Amend rule 875—91.6(89) as follows:

875—91.6(89) Pipe, valve, and fitting requirements.

91.6(1) Pipes, valves, and fittings subject to the effects of galvanic action shall not be used on objects covered by these rules ~~except where permitted in 875—Chapter 95~~. Dielectric fittings shall be used where dissimilar metals are joined.

91.6(2) and **91.6(3)** ~~Rescinded IAB 11/18/09, effective 1/1/10.~~

ITEM 9. Amend rule 875—91.18(89) as follows:

875—91.18(89) National Board registration. Except for cast iron boilers, ~~and~~ cast aluminum boilers, ~~and objects governed by 875—Chapter 95~~, all objects shall be registered with the National Board.

ITEM 10. Amend rule 875—91.19(89) as follows:

875—91.19(89) ASME stamp. ~~Except for water heaters regulated by 875—Chapter 95~~, all All objects shall bear the appropriate ASME stamp. Objects shall not be utilized in a manner inconsistent with the stamp.

ITEM 11. Rescind and reserve **875—Chapter 95**.

ARC 3809C

LAW ENFORCEMENT ACADEMY[501]

Notice of Intended Action

Proposing rule making related to emergency care provider certification and providing an opportunity for public comment

The Iowa Law Enforcement Academy hereby proposes to amend Chapter 1, “Organization and Administration,” Chapter 3, “Certification of Law Enforcement Officers,” Chapter 4, “Instructor Certification Criteria for Approved Regional Law Enforcement Training Facilities,” Chapter 9, “Jailer Training,” and Chapter 10, “Reserve Peace Officers,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 80B.11 and 80B.11A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 80B.11 and 80B.11A.

Purpose and Summary

The emergency care provider certification process for Iowa peace officers is managed within the Iowa Law Enforcement Academy based on guidance provided by the Iowa Department of Public Health

LAW ENFORCEMENT ACADEMY[501](cont'd)

(IDPH). The Academy proposes these amendments to Chapters 1, 3, 4, 9 and 10 to reflect the current process for IDPH involvement. 641—Chapter 139, “Iowa Law Enforcement Emergency Care Provider,” is no longer relevant in the certification process and is proposed to be rescinded by the IDPH in a future rule making. The level of training required of Iowa peace officers to obtain an emergency care provider certification is not changed.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Academy for a waiver of the discretionary provisions, if any, pursuant to 501—Chapter 16.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Academy no later than 4:30 p.m. on June 12, 2018. Comments should be directed to:

Russell Rigdon
Iowa Law Enforcement Academy
Building 4640
P.O. Box 130
Johnston, Iowa 50131
Phone: 515.725.9600
Email: russell.rigdon@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Adopt the following **new** definition of “Iowa law enforcement emergency care provider” in rule **501—1.1(80B)**:

“Iowa law enforcement emergency care provider” or “*ILEECP*” means an individual who is certified by the academy as an Iowa peace officer, who has successfully completed an emergency medical care

LAW ENFORCEMENT ACADEMY[501](cont'd)

provider curriculum approved by the academy, and who is currently certified by the academy as an emergency medical care provider.

ITEM 2. Amend paragraph 3.9(1)“b” as follows:

b. The applicant must possess or obtain current Iowa law enforcement emergency care provider (ILEECP) ~~or more advanced certification recognized or current emergency medical care provider certification issued~~ by the Iowa department of public health and approved by the academy, and current course completion in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for all age groups according to national standards, with documentation furnished to the academy.

ITEM 3. Amend subrule 4.3(2) as follows:

4.3(2) Specialist (specific requirements to instruct in specialized areas). Special training or experience is required to instruct in certain segments of the curriculum as listed below:

a. *Firearms instructor.* Successful completion of a firearms instructor school at the Iowa law enforcement academy.

b. *Defensive tactics instructor.* Successful completion of a defensive tactics instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

c. *Precision driving instructor (lead instructor).*

(1) Lead instructor. Must have satisfactorily completed a recognized precision driving instructor school.

(2) Assistant instructors. Must possess an understanding of the program to be presented and, as a result of experience and informal instruction, have developed skills adequately to assist lead instructor and shall work under the immediate supervision of lead instructor at all times.

d. *Physical fitness instructor.* Successful completion of a physical fitness instructor school at the Iowa law enforcement academy or other training recognized by the Iowa law enforcement academy.

e. ~~Crash injury management.~~ Iowa law enforcement emergency care provider instructor. Must be certified to instruct in this area as an ILEECP by the Iowa law enforcement academy or maintain current emergency medical care provider certification issued by the Iowa department of public health and have completed an instructor course as approved by the academy.

f. *Fingerprint instructor.* Must have successfully completed the basic and advanced Federal Bureau of Investigation fingerprint schools or a program approved by the Iowa law enforcement academy council.

g. *Narcotics and dangerous drug instructor.* Must have extensive experience and specialty training in this area.

h. ~~Accident~~ Collision investigation instructor. Must have completed a two-week ~~accident~~ collision investigation school provided or recognized by the Iowa law enforcement academy.

i. *Law enforcement and minority group instructor.* Must possess a four-year degree from an accredited institution in the behavioral science area and must have three years of experience in the subject area, or, in the opinion of the council, ~~meets~~ meet the qualifications set forth in 4.3(1).

j. *Communications instructor.* Must be certified by general services, communication division.

k. ~~Drinking driver control instructor.~~ Chemical testing instructor. Must have extensive field experience with a strong background in the Iowa Code and case law. To teach the chemical testing segment, the instructor must possess training and experience in laboratory methods relative to the subject.

l. *Arson and bombing instructor.* Must have attended a specialty school in police/military ~~explosive~~ explosives handling and a recognized arson school.

m. ~~Crowd control~~ management instructor. Must have attended a school recognized by the Iowa law enforcement academy in riot control and chemical agents.

n. *Criminalistics instructor.* Must have extensive experience and education or training in methods and procedures for scientific crime detection.

o. ~~Youth and Juvenile~~ law instructor. Must have extensive experience in dealing with youthful offenders, a strong background in Iowa juvenile law and relevant case law, and specialty training or education in the subject area.

LAW ENFORCEMENT ACADEMY[501](cont'd)

ITEM 4. Rescind subrule 9.1(1) and adopt the following **new** subrule in lieu thereof:

9.1(1) Basic training. All jail administrators shall meet the following requirements within six months of appointment. Jailers shall meet the following requirements within one year of employment:

a. First aid and cardiopulmonary resuscitation.

(1) The individual shall hold a current course completion card in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for adults according to national standards recognized by the Iowa law enforcement academy.

(2) The individual shall hold a current course completion card in first aid according to the national standards recognized by the Iowa law enforcement academy or one of the following:

1. Certification as an Iowa law enforcement emergency care provider (ILEECP) by the Iowa law enforcement academy.

2. Certification by the Iowa department of public health as an emergency medical responder or higher.

3. Certification of completion of a first-aid training program appropriate to jail usage which was developed by a sheriff's department. First-aid training criteria shall include, at a minimum, the following topics:

- Shock.
- Bleeding control.
- Burns.
- Soft tissue and bone/joint injuries.
- Difficulty breathing.
- Chest pain.
- Allergic reaction.
- Poisoning.
- Seizures.
- Diabetic emergencies.
- Heat and cold emergencies.
- Suicide.

All instructors providing training pursuant to 9.1(1)“a”(2)“3” shall be certified pursuant to subrule 9.2(2).

4. Licensure to practice as a licensed practical nurse, registered nurse or medical practitioner in the state of Iowa.

(3) The individual shall be certified as an instructor by the American Heart Association, the American Red Cross or other national program as approved by the academy.

(4) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

b. Either the successful completion of a 40-hour training program approved by the academy or the successful completion of a National Sheriffs' Association correspondence course shall be applicable to jailers and administrators employed in all jails pursuant to subrule 9.2(1). Either course must be appropriately documented to reflect course content, length of session, and instructor(s). All instructors presenting classes either in the 40-hour training or continuing education program shall be certified by academy personnel utilizing certification standards adopted by the academy. It shall be the responsibility of the training program director to make certain all instructors are certified and the training program is approved.

c. All staff providing medication shall be trained in accordance with the Iowa state sheriffs' and deputies' association medication training program or other program approved by the Iowa board of pharmacy.

ITEM 5. Rescind paragraph **9.3(1)“a”** and adopt the following **new** paragraph in lieu thereof:

a. First aid and cardiopulmonary resuscitation.

LAW ENFORCEMENT ACADEMY[501](cont'd)

(1) The individual shall hold a current course completion card in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for adults according to national standards recognized by the Iowa law enforcement academy.

(2) The individual shall hold a current course completion card in first aid according to the national standards recognized by the Iowa law enforcement academy or one of the following:

1. Certification as an Iowa law enforcement emergency care provider (ILEECP) from the Iowa law enforcement academy.

2. Certification by the Iowa department of public health as emergency medical responder or higher.

3. Certification of completion of a first-aid training program appropriate to jail usage which was developed by a sheriff's department. First-aid training criteria shall include, at a minimum, the following topics:

- Shock.
- Bleeding control.
- Burns.
- Soft tissue and bone/joint injuries.
- Difficulty breathing.
- Chest pain.
- Allergic reaction.
- Poisoning.
- Seizures.
- Diabetic emergencies.
- Heat and cold emergencies.
- Suicide.

All instructors providing training pursuant to 9.3(1) "a"(2)"3" shall be certified pursuant to subrule 9.2(2).

4. Licensure to practice as a licensed practical nurse, registered nurse or medical practitioner in the state of Iowa.

(3) The individual shall be certified as an instructor by the American Heart Association, the American Red Cross or other national program as approved by the academy.

(4) All certification or licensure required by this rule must thereafter be maintained current according to the standards of the certifying or licensing agency.

ITEM 6. Amend rule 501—10.10(80D) as follows:

501—10.10(80D) CPR certification required. Reserve peace officers shall maintain ~~at a minimum valid first-aid certifications issued by the American Heart Association, the American Red Cross, or any other group recognized by the Iowa law enforcement academy and must have~~ current course completion in cardiopulmonary resuscitation, AED and Foreign Body Airway Obstruction for all age groups according to national standards, ~~with documentation furnished to~~ recognized by the Iowa law enforcement academy.

REVENUE DEPARTMENT

Notice of Electric and Natural Gas Delivery Tax Rate Changes

Pursuant to the authority of Iowa Code sections 437A.4 and 437A.5, the Director of Revenue hereby gives notice of the changes to the electric and natural gas delivery tax rates. These rates will be used in conjunction with the number of kilowatt hours of electricity and the number of therms of natural gas delivered to consumers in calendar year 2017 by each taxpayer, for replacement taxes payable in the 2018-2019 fiscal year.

REVENUE DEPARTMENT(cont'd)

**2017 ELECTRIC DELIVERY TAX RATES BY SERVICE AREA
RATE CHANGES ONLY**

CO. #	MUNICIPAL ELECTRICS	DELIVERY TAX RATE
3347	West Point Municipal Utility System	0.00011870
3327	Story City Municipal Electric Utility	0.00010992
3236	Coggon Municipal Light Plant	0.00005044
3229	Bloomfield Municipal Electric Utility	0.00003607
3112	Manning Municipal Utilities	0.00025521
3267	Hopkinton Municipal Utilities	0.00000824
3216	Buffalo Municipal Electric System	0.00000211
3309	Panora Municipal Electric Utility	0.00006921
3076	Brooklyn Municipal Utilities	0.00132929

CO. #	IOUs — ELECTRIC	DELIVERY TAX RATE
7206	Amana Society Service Co.	0.00053715

CO. #	RECs	DELIVERY TAX RATE
4319	Access Energy Coop	0.00042683
4219	Calhoun County Electric Coop	0.00114710
4287	Consumers Energy	0.00170291
4250	Farmers Electric Coop - Greenfield	0.00280321
4249	Farmers Electric Coop - Kalona	0.00047680
4260	Grundy Electric Coop	0.00052083
4223	Heartland Power Coop	0.00034506
4308	Osceola Electric Coop	0.00029436
4333	Tri-County Electric Coop	0.00107251
4348	Western Iowa Power Coop	0.00108160

**2017 NATURAL GAS DELIVERY TAX RATES BY SERVICE AREA
RATE CHANGES ONLY**

CO. #	MUNICIPAL GAS	DELIVERY TAX RATE
5241	Corning Municipal Utilities	0.00000621
5344	West Bend Municipal Utilities	0.00002007
5215	Brighton Municipal Gas System	0.00699385
5283	Manning Municipal Natural Gas	0.00015655
5349	Winfield Municipal Gas Utility	0.00063299
5275	Lamoni Municipal Gas Utilities	0.00082594
5281	Manilla Municipal Gas	0.00047694
5238	Coon Rapids Municipal Gas Utility	0.00004696

REVENUE DEPARTMENT(cont'd)

CO. #	IOUs — GAS	DELIVERY TAX RATE
5272	Interstate Power	0.00250175
5289	MidAmerican Energy Gas	0.00661831

TREASURER OF STATE

Notice—Public Funds Interest Rates

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions Katie Averill, Superintendent of Banking Ronald L. Hansen, and Auditor of State Mary Mosiman has established today the following rates of interest for public obligations and special assessments. The usury rate for May is 4.50%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

74A.2 Unpaid Warrants	Maximum 6.0%
74A.4 Special Assessments	Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Financial Institutions as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective May 9, 2018, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

7-31 days	Minimum .10%
32-89 days	Minimum .10%
90-179 days	Minimum .35%
180-364 days	Minimum .45%
One year to 397 days	Minimum .60%
More than 397 days	Minimum .85%

These are minimum rates only. All time deposits are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

June 1, 2017 — June 30, 2017	4.25%
July 1, 2017 — July 31, 2017	4.25%
August 1, 2017 — August 31, 2017	4.25%
September 1, 2017 — September 30, 2017	4.25%
October 1, 2017 — October 31, 2017	4.25%
November 1, 2017 — November 30, 2017	4.25%
December 1, 2017 — December 31, 2017	4.25%
January 1, 2018 — January 31, 2018	4.25%
February 1, 2018 — February 28, 2018	4.50%
March 1, 2018 — March 31, 2018	4.50%
April 1, 2018 — April 30, 2018	4.50%
May 1, 2018 — May 31, 2018	4.50%
June 1, 2018 — June 30, 2018	4.50%

ARC 3810C

LABOR SERVICES DIVISION[875]

Adopted and Filed

Rule making related to occupational safety and health violations

The Labor Commissioner hereby amends Chapter 3, “Posting, Inspections, Citations and Proposed Penalties,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 88.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 88.

Purpose and Summary

This amendment aligns Iowa’s penalties for occupational safety and health violations with the corresponding federal penalties.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3702C**. No public hearing was held. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Labor Commissioner on May 2, 2018.

Fiscal Impact

This rule making will result in a small increase in deposits to the State General Fund.

Jobs Impact

After analysis and review of this rule making, the Commissioner finds that jobs could be impacted. However, the amendment is implementing federally mandated regulations, and the State of Iowa is only implementing the federal regulations. The requirements imposed on Iowa businesses by these regulations do not exceed those imposed by federal law.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to 875—Chapter 5.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

LABOR SERVICES DIVISION[875](cont'd)

Effective Date

This rule making will become effective on June 30, 2018.

The following rule-making action is adopted:

Amend subrule 3.11(1) as follows:

3.11(1) The civil penalties proposed by the labor commissioner on or after ~~February 11, 2018~~ June 30, 2018, are as follows:

a. Willful violation. The penalty for each willful violation under Iowa Code section 88.14(1) shall not be less than ~~\$8,908~~ \$9,239 and shall not exceed ~~\$124,709~~ \$129,336.

b. Repeated violation. The penalty for each repeated violation under Iowa Code section 88.14(1) shall not exceed ~~\$124,709~~ \$129,336.

c. Serious violation. The penalty for each serious violation under Iowa Code section 88.14(2) shall not exceed ~~\$12,471~~ \$12,934.

d. Other-than-serious violation. The penalty for each other-than-serious violation under Iowa Code section 88.14(3) shall not exceed ~~\$12,471~~ \$12,934.

e. Failure to correct violation. The penalty for failure to correct a violation under Iowa Code section 88.14(4) shall not exceed ~~\$12,471~~ \$12,934 per day.

[Filed 5/2/18, effective 6/30/18]

[Published 5/23/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/23/18.

ARC 3811C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rule making related to claims

The Director of the Workforce Development Department hereby amends Chapter 24, "Claims and Benefits," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

These amendments update the Department's definition of the benefit year, clarify the timelines for filing a weekly claim, and specify certifications made by claimants in continuing claims. Further, the rule on backdating is updated to reflect the responsibility of the claimant to file continued claims rather than to rely upon the Department to do so in arrears. A rule on interstate claims is also added in order to reflect the need for certification from the other state in those cases.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 28, 2018, as **ARC 3712C**. The Notice was reviewed by the Administrative Rules Review Committee at its meeting held on April 6, 2018. At the meeting, comments were received from the Iowa Association of Business and Industry (ABI) in opposition to the amendment in Item 6. ABI presented

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

language that it wished to have the Department adopt in lieu of the language proposed in Item 6. Public comment was also received formally from ABI, as well as from Mark Hanawalt of United Equipment Accessories, Inc., and Charles Sukup from Sukup Manufacturing. In consideration of continued discussions with the stakeholders and interested parties, the Department has elected not to adopt the amendments proposed in Items 5 and 6 at this time and has renumbered Item 7 as Item 5 accordingly.

Adoption of Rule Making

This rule making was adopted by the Director of the Department on May 4, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 27, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 24.1(21) as follows:

24.1(21) Benefit year, individual. The benefit year is a period of 365 days (366 in a leap year) beginning with and including the starting date of the benefit year. The starting date of the benefit year is always on Sunday and is the Sunday of the current week in which the claimant first files a valid claim ~~unless the claim is backdated as allowed under paragraph 24.2(1)“h.”.~~

ITEM 2. Amend subparagraph **24.2(1)“g”(1)** as follows:

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, ~~unless reasonable cause can be shown for the delay,~~ not later than close of business on the Friday following the weekly reporting period.

ITEM 3. Amend subparagraph **24.2(1)“g”(3)** as follows:

(3) The individual shall set forth the following:

1. That the individual continues the claim for benefits;
2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, was able to work and available for work;
3. That the individual indicates the number of employers contacted for work, the contact information for each employer contacted, and the result of the contact;

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

4. That the individual knows the law provides penalties for false statements in connection with the claim;

5. That the individual has reported any job offer received during the period covered by the claim;

6. That the individual understands the individual's responsibility to review the individual's claim records to ensure there is no delay in filing the individual's weekly claim to remain in continuous reporting status. Failure to file claims each week will require a claimant to submit a claim application to reactivate the claim;

~~6.~~ 7. Other information required by the department.

ITEM 4. Amend subparagraph **24.2(1)“h”(2)** as follows:

(2) The claim may only be backdated prior to the first day of the calendar week in which the claimant does report and file a claim ~~for the following reasons:~~

~~1. The failure of the department to recognize the expiration of the claimant's previous benefit year;~~

~~2. The if the claimant filed an interstate claim against another state which has been determined as ineligible.~~

ITEM 5. Adopt the following new subparagraph **24.37(1)“d”(4)**:

(4) The effective date of an interstate claim shall be the Sunday of the week the claim was filed, except if proof is obtained from another state that the claimant filed in that state and it was determined that the claim should have been filed in Iowa.

[Filed 5/4/18, effective 6/27/18]

[Published 5/23/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/23/18.

ARC 3812C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rule making related to claims

The Director of the Workforce Development Department hereby amends Chapter 24, “Claims and Benefits,” and Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

Purpose and Summary

These amendments update the reporting requirement for claimants during a continued claim and the procedures for continuing eligibility and verification of claims.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 14, 2018, as **ARC 3672C**. The Notice was reviewed by the Administrative Rules Review Committee at its meeting held on April 6, 2018. Questions were asked regarding the need for the use of social security numbers. The Department advised that this information is closely safeguarded. No public comments were received. No changes from the Notice have been made.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Adoption of Rule Making

This rule making was adopted by the Director of the Department on April 25, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 27, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **24.2(1)“b”(1)** as follows:

(1) The name and complete mailing address of such individual's last employing unit or employer including work history for all employers within the individual's base period.

ITEM 2. Amend subparagraph **24.2(1)“b”(8)** as follows:

(8) Number, full name, social security number, date of birth, and relationship of any dependents claimed. The identity of an individual identified as a dependent shall be verified by the department before the individual is added to the claim as a dependent. As used in this subparagraph, “dependent” is defined as: spouse, son or daughter of the claimant, or a dependent of either; stepson or stepdaughter; foster child or child for whom claimant is a legal guardian; brother, sister, stepbrother, stepsister; father or mother of claimant, or stepfather or stepmother of the claimant; son or daughter of a brother or sister of the claimant (nephew or niece); brother or sister of the father or mother of the claimant (uncle or aunt); son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the claimant; an individual who lived in the claimant's home as a member of the household for the whole year; cousin.

A “spouse” is defined as an individual who does not earn more than \$120 in gross wages in one week. The reference week for this monetary determination shall be the gross wages earned by the spouse in the calendar week immediately preceding the effective date of the claim.

A “dependent” means an individual who has been ~~or could have been~~ claimed for the preceding tax year on the claimant's income tax return ~~or will be claimed for the current income tax year.~~ The same dependent shall not be claimed on two separate monetarily eligible concurrent established benefit years. An individual cannot claim a spouse as a dependent if the spouse has listed the claimant as a dependent on a current claim.

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ITEM 3. Amend rule 871—24.6(96) as follows:

871—24.6(96) Profiling for reemployment services Reemployment services and eligibility assessment procedure.

24.6(1) The department of workforce development and the department of economic development will jointly provide a program which consists of profiling claimants and providing reemployment services.

24.6(2) Purpose.

a. Profiling is a systematic procedure used to identify claimants who, because of certain characteristics, are determined to be permanently separated and most likely to exhaust benefits. Such claimants may be referred to reemployment services.

b. The eligibility assessment program is used to accelerate the individual's return to work and systematically review the individual's efforts towards the same goal.

24.6(3) Reemployment services and eligibility assessment may include, but are not limited to, the following:

- a.* An assessment of the claimant's aptitude, work history, and interest.
- b.* Employment counseling regarding reemployment approaches and plans.
- c.* Job search assistance and job placement services.
- d.* Labor market information.
- e.* Job search workshops or job clubs and referrals to employers.
- f.* Résumé preparation.
- g.* Other similar services.

24.6(4) As part of the initial intake procedure, each claimant shall be required to provide the information necessary for profiling and evaluation of the likelihood of needing reemployment assistance.

24.6(5) The referral of a claimant and the provision of reemployment services is subject to the availability of funding and limitations of the size of the classes.

24.6(6) A claimant shall participate in reemployment services when referred by the department unless the claimant establishes justifiable cause for failure to participate or the claimant has previously completed such training or services. Failure by the claimant to participate without justifiable cause shall disqualify the claimant from the receipt of benefits until the claimant participates in the reemployment services or eligibility assessment. The claimant shall contact the agency prior to the scheduled appointment or service to advise the department of the justifiable cause.

a. Justifiable cause for failure to participate is an important and significant reason which a reasonable person would consider adequate justification in view of the paramount importance of reemployment to the claimant. Justifiable cause includes when the claimant is scheduled for an employment interview, is verified return to work, or both prior to the scheduled appointment or service.

b. Reserved.

24.6(7) Eligibility assessment procedure.

a. Before an individual has claimed five weeks of intrastate benefits, the workforce development center shall receive a computer-selected list of individuals claiming benefits within the target population for review.

b. No eligibility assessment will be performed on an individual unless monetary eligibility and nonmonetary eligibility are established.

c. Once selected for an initial or subsequent eligibility assessment, claimants are required to participate in all components of the assessment as determined by the department.

d. A Notice to Report shall be sent by the workforce development center to an individual who is in an active status at the time of its printing. If the individual does not respond, the department must issue an appropriate failure to report decision and lock the claim to prevent payment.

e. Selected claimants must report in person to the designated workforce development center to receive staff-assisted services for the initial assessment.

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f. Before an administrative law judge can rule on a disqualification for failure to report at an Iowa workforce development center as directed, there must be evidence to show that the individual was required to report for an interview.

24.6(8) Conducting the first eligibility assessment interview.

- a. All available evidence must be examined to detect potentially disqualifying issues.
- b. The individual's need for advice, assistance or instructions must be determined and conveyed to the individual.
- c. The interview must convey to the individual the requirements that must be satisfied to maintain eligibility.
- d. This advice, assistance or instruction constitutes an understanding and agreement between the individual and the unemployment insurance representative at the conclusion of the interview regarding the individual's willingness and ability to eliminate any barriers to obtaining reemployment which otherwise would result in referral for adjudication.
- e. The individual shall be advised of what constitutes an acceptable effort to obtain reemployment in accordance with state policy, with consideration for local labor market information and the individual's occupation.
- f. The final objective of the interview is to determine whether a subsequent interview is needed. This determination shall be based on expected return to work date, job openings in the area, local labor market conditions, and other relevant factors.

This rule is intended to implement Iowa Code section 96.4(7).

ITEM 4. Rescind and reserve rule **871—24.11(96)**.

ITEM 5. Amend paragraph **24.22(2)“n”** as follows:

n. Corporate officers. To be considered available, the ~~corporation~~ corporate officer must meet the same tests of availability as are met by other individuals. The individual must be desirous of other work, be free from serious limitations and be seriously searching for work. ~~The reported efforts of a corporate officer to seek work should be studied to distinguish those directed toward obtaining work for the officer as an individual and those directed to obtaining work or business for the corporation. Any effort to obtain business for the corporation to perform is a service to the corporation and is not evidence of the individual's own availability for work.~~

ITEM 6. Amend subrule 24.23(39) as follows:

24.23(39) Where the work search or the Eligibility Review Form has been deliberately falsified for the purpose of obtaining unemployment insurance benefits. The general guide for disqualifications for falsification of work search is listed below. It is intended to be used as a guide only and is not a substitute for the personal subjective judgment of the representative because each case must be decided on its own merits. The administrative penalty recommended for falsification is:

- a.* First offense—six ~~weeks~~ weeks' penalty.
- b.* Second offense—nine ~~weeks~~ weeks' penalty.
- c.* Third offense—total disqualification for the remainder of the benefit year plus consideration of the possibility of filing fraud charges depending on the circumstances.

ITEM 7. Amend subrule 24.60(2) as follows:

24.60(2) It is required that information designed to identify illegal nonresident aliens shall be requested of all claimants for benefits. This shall be accomplished by asking each claimant at the time the individual establishes a benefit year whether or not the individual is a citizen.

- a.* If the response is “yes,” no further proof is necessary and the claimant's records are to be marked accordingly.
- b.* If the answer is “no,” the claimant shall be requested to present documentary proof of legal residency. Any individual who does not show proof of legal residency at the time it is requested shall be disqualified from receiving benefits until such time as the required proof of the individual's status is brought to the local office. The principal documents showing legal entry for permanent residency are the Form I-94, “Arrival and Departure Record,” and the Forms I-151 and I-551, “Alien Registration

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Receipt Card.²² These forms are issued by the ~~Immigration and Naturalization Service~~ U.S. Citizenship and Immigration Services and should be accepted unless the proof is clearly faulty or there are reasons to doubt their authenticity. An individual will be required to provide the individual's alien registration number at the time of claim filing.

c. Any or all documents presented to the department by an alien shall be subject to verification with the ~~immigration and naturalization service~~ U.S. Citizenship and Immigration Services. The citizenship question shall be included on the initial claim form so that the response will be subject to the provisions of rule 871—24.56(96), administrative penalties, and rule 871—25.10(96), prosecution on overpayments.

d. ~~Rescinded IAB 8/6/03, effective 9/10/03.~~

ITEM 8. Amend subparagraph **24.60(3)“b”(6)** as follows:

(6) An alien who has been formally granted deferred action or nonpriority status by the ~~immigration and naturalization service~~ U.S. Citizenship and Immigration Services.

ITEM 9. Amend rule 871—25.2(96) as follows:

871—25.2(96) Policy of the investigation and recovery ~~section~~ unit.

25.2(1) The policy of the investigation and recovery ~~section~~ unit is to take aggressive action to prevent, detect, and deter benefits paid through error by the agency or through willful misrepresentation or error by the claimant or others and investigate and penalize fraudulent actions on the part of claimants and employing units.

25.2(2) It shall be the policy of the investigation and recovery ~~section~~ unit to maximize the recoupment of overpayments from those claimants who have received benefits to which they were not entitled. It shall also be the policy of the ~~section~~ unit to seek prosecution of persons whom the ~~section~~ unit believes have committed serious violations of the employment security law of Iowa.

This rule is intended to implement Iowa Code sections 96.11(1), 96.16, and 96.17(2).

ITEM 10. Amend rule 871—25.3(96), introductory paragraph, as follows:

871—25.3(96) Functions of the investigation and recovery ~~section~~ unit. The function of the investigation and recovery ~~section~~ unit is to:

ITEM 11. Amend subrule 25.3(1), introductory paragraph, as follows:

25.3(1) Investigate and make determinations on issues within the scope of the investigation and recovery ~~bureau~~ unit which are referred by the general public, employing units, agency personnel, other agencies, and anonymous sources. The ~~bureau~~ unit shall examine allegations of the following type:

ITEM 12. Amend rule 871—25.4(96) as follows:

871—25.4(96) Allegation of claimant fraud. The procedure to be followed where an allegation of claimant fraud has been made is:

25.4(1) Upon receipt of an allegation of claimant fraud, if the alleging party supplies sufficient information to proceed with an investigation, the alleging party shall be advised that the investigation and recovery ~~bureau~~ unit will make a full investigation of the allegation. The alleging party will be advised of the ~~bureau's~~ unit's findings, if such investigation could affect the employer account of the alleging party or affect a claim for benefits of the alleging party.

25.4(2) The allegations will be promptly forwarded to the investigation and recovery ~~section~~ unit for investigation.

25.4(3) If the findings revealed through the investigation by the investigation and recovery ~~bureau~~ unit indicate that a disqualification would have resulted for the period benefits were paid, an informal fact-finding interview shall be scheduled to allow the party making the allegation and the claimant an opportunity to give testimony. The investigation and recovery ~~bureau~~ unit will determine if separate fact-finding interviews are necessary for the claimant and party making the allegations and any other party with pertinent information.

25.4(4) If the claimant or any other party with pertinent information wishes to invoke the fifth amendment right to remain silent, the investigator can require the claimant or any other party with

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

pertinent information to answer all questions or produce any pertinent documents. However, the claimant or any other party with pertinent information cannot be prosecuted on the basis of any transaction, matter, or thing concerning which the claimant or any other party with pertinent information is compelled, after having claimed the privilege against self-incrimination, to testify or produce evidence.

25.4(5) In the event a local office receives an allegation by anonymous communication, the office will forward such information to the investigation and recovery ~~bureau~~ unit.

This rule is intended to implement Iowa Code sections 96.16 and 96.11(10).

ITEM 13. Amend rule 871—25.5(96) as follows:

871—25.5(96) Allegation of employing unit fraud. The following is the general procedure to be followed by the investigation and recovery ~~bureau~~ unit in an employing unit fraud investigation:

25.5(1) Upon receipt of an allegation of employing unit fraud the party making the allegation will provide sufficient information to proceed with an investigation. Information such as the identification and location of the employing unit, the individual or group of individuals suspected of fraudulent action, and what fraudulent action is occurring will be provided, if possible.

25.5(2) The allegation will be promptly forwarded to the investigation and recovery ~~bureau~~ unit for investigation.

25.5(3) The ~~investigations~~ investigation and recovery unit may seek the assistance and expertise of the tax ~~bureau~~ unit staff.

25.5(4) If the findings, revealed through the investigation by the investigation and recovery ~~bureau~~ unit, indicate that misrepresentation occurred on the part of the employer, an informal fact-finding interview will be scheduled for the party or parties to allow them an opportunity to present testimony either refuting or affirming the allegation of employer fraud.

25.5(5) If the employer wishes to invoke the fifth amendment, the investigator can require the employer to answer all questions. However, the employer cannot be prosecuted on the basis of any transaction, matter, or issue concerning which such employer is compelled, after having invoked the privilege against self-incrimination, to testify or produce evidence.

25.5(6) In the event a workforce development office receives an allegation, the office will forward such information to the investigation and recovery ~~bureau~~ unit, provided the communication identifies and supplies sufficient information to proceed with an investigation.

This rule is intended to implement Iowa Code sections 96.16 and 96.11(10).

ITEM 14. Amend subrule 25.6(4) as follows:

25.6(4) An investigator shall have the authority to request all pertinent books, papers, correspondence, memoranda, and other records necessary in the investigation of any error or potential fraudulent activity committed by a claimant, employing unit, or other party. Likewise, testimony may be taken from any person who has relevant information or records concerning the matter or events under investigation. Any person, when requested by an investigator to produce records or give testimony, must be available personally to give testimony to or to produce records within a reasonable time for the investigator. If any person does not comply with the investigator's request to give testimony to the department or produce records, a subpoena may be issued summoning the individual to appear before the investigator to give testimony or present the records.

If the investigator determines that any request for the voluntary production of pertinent records might endanger the existence of such records, the investigation and recovery ~~bureau~~ unit may immediately issue a subpoena duces tecum which orders an individual to produce some document or paper that is pertinent to a pending investigation by the investigation and recovery ~~bureau~~ unit, in order to secure the production of such records.

ITEM 15. Amend subrule 25.6(5) as follows:

25.6(5) The investigation and recovery ~~bureau~~ unit may seek the assistance and expertise of the field auditors.

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ITEM 16. Amend subrule 25.6(7) as follows:

25.6(7) Upon completion of the investigation, a determination shall be made as to whether or not fraudulent activity has occurred. If there is fraudulent activity, appropriate corrective action shall be initiated and the alleging party shall be advised of the investigation and recovery ~~bureau's~~ unit's findings, if such investigation could affect the employer account of the alleging party. The case may be prepared for prosecution if prosecution is warranted.

ITEM 17. Amend subrule 25.7(1) as follows:

25.7(1) Determination by reason of the claimant's own fault, employer's fault, agency fault, or fraud as provided in Iowa Code section 96.16, that the claimant has received benefits to which such claimant was not entitled shall be made by the ~~investigations~~ investigation and recovery unit on the basis of such facts as it may obtain.

ITEM 18. Amend subrule 25.7(3) as follows:

25.7(3) Upon receiving a written request for review, the investigation and recovery ~~bureau~~ unit, based upon such facts as it has or may acquire, may affirm, modify, or reverse the prior decision or refer the matter to an administrative law judge. The claimant shall be promptly notified of such decision or referral. Unless the claimant files an appeal within ten calendar days after the date of mailing, such decision shall be final. Timeliness shall be determined by postmark within ten calendar days from the date of mailing shown on the decision or be received by the department within ten calendar days from the date of mailing.

ITEM 19. Amend subrule 25.7(4) as follows:

25.7(4) The claimant may directly appeal the decision of the investigation and recovery ~~bureau~~ unit without a request for review, in which case the appeal will be referred directly to the appeals section of the department.

ITEM 20. Amend subrule 25.9(3) as follows:

25.9(3) Sources of information concerning the application of an administrative penalty shall be the same as those pertaining to fraud and overpayment, namely:

- a. Employer report of wages, with comparative analysis of them with concurrent benefit payments.
- b. Local office obtaining late reports by claimant of deductible income items or potentially disqualifying circumstances.
- c. Tips and leads from other sources of claimant being employed while claiming benefits or that such claimant did not otherwise meet the eligibility requirements.
- d. Cross-checking of information on death tapes from the vital statistics section, division of administration, department of public health.
- e. Review of claims using social security numbers not issued by the social security administration.
- f. Cross-checking of information from the Iowa centralized employer registry.
- g. Cross-checking of information with the National Directory of New Hires.
- h. Cross-checking of information on incarcerated individuals from the Iowa department of corrections.
- i. Cross-checking of information with fraud detection tools identified by the department.

ITEM 21. Amend subrule 25.9(9) as follows:

25.9(9) A criminal conviction of a claimant for fraud or an order of the court requiring restitution for the amount of the overpayment shall not preclude the investigation and recovery ~~bureau~~ unit from also imposing an administrative penalty denying further benefits to the claimant for a period of time not to exceed the remainder of said claimant's benefit year and including the week in which such determination is made by the investigation and recovery ~~bureau~~ unit.

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ITEM 22. Amend rule 871—25.10(96) as follows:

871—25.10(96) Prosecution on overpayments.

25.10(1) When an overpayment occurs due to misrepresentation, the case shall be given a thorough and detailed review of the facts, as obtained by the investigation and recovery bureau unit, to determine if a prosecution for fraud would meet the county attorney's criteria.

a. The claimant shall be afforded an opportunity to give testimony either refuting or affirming the overpayment.

b. The investigation and recovery bureau unit will issue a decision concerning the overpayment.

25.10(2) Restitution or the establishment of a repayment plan of an amount overpaid to a claimant due to fraudulent misrepresentation or failure to disclose a material fact shall not preclude the investigation and recovery bureau unit from instituting criminal proceedings against the claimant.

This rule is intended to implement Iowa Code sections 96.11(1) and 96.16(2).

ITEM 23. Amend rule 871—25.12(96) as follows:

871—25.12(96) Wage ~~cross match~~ audit verification procedure.

25.12(1) Each quarter, ~~cross match~~ audit Forms 65-5321 wage verification documents are mailed to selected employers requesting wage information on specific claimants as it concerns benefit payments.

25.12(2) The ~~form~~ documents, upon completion by the employer, is are sent to the investigation and recovery bureau unit for entering in the Iowa workforce development database system. ~~If the form is not completed properly, it is sent to the employing unit for correct information and then returned for processing. Any potential review.~~ Potential cases of conflict ~~generated by the computer program~~ will result in an investigation assignment ~~and investigation packet~~. Claimants will be notified by means of Form 65-5332₂ (Preliminary Audit Notice)₂ and given an opportunity to respond. If it is determined that an overpayment has occurred, the investigator will prepare Form 68-0031, Decision Overpayment Worksheet, on which the amount, weeks, type, and reason for the overpayment are identified. Claimants are notified of the determination on Form 65-5323, Unemployment Insurance Decision.

25.12(3) An employer may choose to participate in the automated ~~crossmatch~~ wage verification procedure by following the electronic submission guidelines.

25.12(4) An employer that fails to respond to a request for wage information pertaining to specific claimant(s) as such request pertains to benefit payments will be charged a fee of \$25 per claimant.

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

[Filed 4/25/18, effective 6/27/18]

[Published 5/23/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/23/18.

ARC 3813C

WORKFORCE DEVELOPMENT DEPARTMENT[871]

Adopted and Filed

Rule making related to claims

The Director of the Workforce Development Department hereby amends Chapter 24, "Claims and Benefits," and Chapter 25, "Benefit Payment Control," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 96.11.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 96.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Purpose and Summary

These amendments clarify procedures for initial claims and specify the repayment terms for overpayments.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 14, 2018, as **ARC 3666C**. The Notice was reviewed by the Administrative Rules Review Committee at its meeting held on April 6, 2018. No questions or comments were received from Committee members. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Director of the Department on April 25, 2018.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on June 27, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **24.2(1)“g,”** introductory paragraph, as follows:

g. No ~~continued claim for benefits~~ benefit payment shall be allowed until the individual claiming benefits has completed a continued claim online or ~~claimed benefits~~ as otherwise directed by the department.

ITEM 2. Amend paragraph **24.9(1)“a”** as follows:

a. When an initial claim for benefits is filed, the department shall send to the individual claiming benefits, ~~including~~ a notification consisting of a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

ITEM 3. Amend paragraph **25.7(6)“c”** as follows:

c. If a claimant fails to respond to the first statement of overpayment, a second statement shall be sent 30 days later. The second statement notifies the claimant that full repayment must be made. If the claimant cannot make full repayment, the department will consider a monthly repayment agreement.

WORKFORCE DEVELOPMENT DEPARTMENT[871](cont'd)

Monthly amounts based on the minimum repayment agreement schedule below will be printed on the second billing. The first repayment is expected 10 days from the date of the second repayment statement and the additional repayments every 30 days thereafter until the debt is paid in full. The department reserves the right to accept or reject any proposed repayment agreement. The following minimum repayment agreement is acceptable by to the department.

Amount of Original Overpayment	Minimum Monthly Payments	Number of Months Required to Liquidate the Overpayment
Under \$199	\$ 25	1 to 8
\$200 to \$399	\$ 40 <u>50</u>	5 to 10 <u>4 to 8</u>
\$400 to \$599	\$ 50 <u>75</u>	8 to 12 <u>5 to 8</u>
\$600 to \$799	\$ 65 <u>90</u>	9 to 13 <u>6 to 9</u>
\$800 to \$999	\$ 80 <u>100</u>	10 to 13 <u>8 to 10</u>
\$1000 to \$1499	\$ 90 <u>150</u>	11 to 17 <u>6 to 10</u>
\$1500 to \$1999	\$100 <u>200</u>	15 to 20 <u>7 to 10</u>
\$2000 to \$2999	\$110 <u>250</u>	18 to 28 <u>8 to 12</u>
\$3000 and over	\$130 <u>300</u>	23 to — <u>10 to —</u>

[Filed 4/25/18, effective 6/27/18]

[Published 5/23/18]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/23/18.

AGENCY	RULE	DELAY
Public Health Department[641]	80.2, 80.3, 80.4(4)“f”(6), 80.5(2)“a”(4), 80.6 [IAB 4/11/18, ARC 3747C]	Effective date of May 16, 2018, delayed until the adjournment of the 2019 General Assembly by the Administrative Rules Review Committee at its meeting held May 8, 2018. [Pursuant to §17A.8(9)]