

AUDITOR OF STATE[81]

Editorially transferred from [130] to [81], IAC Supp. 5/6/87
INDUSTRIAL LOAN DIVISION

CHAPTER 1

Reserved

Transferred to Banking Division[187] under the
“umbrella” of the Department of Commerce[181]
as Ch 16, IAC Supp. 4/22/87.

SAVINGS AND LOAN DIVISION

CHAPTERS 2 to 13

Reserved

Transferred to Savings and Loan Division[197] under the
“umbrella” of the Department of Commerce
[181], IAC Supp. 3/25/87.

CHAPTERS 14 to 19

Reserved

LOCAL AUDIT DIVISION

CHAPTER 20

Reserved

CHAPTER 21

FILING FEES

- 21.1(11) Filing fee
- 21.2(11) Periodic examination fee

CHAPTERS 22 and 23

Reserved

CHAPTER 24

PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

(Uniform Rules)

- 24.1(22) Definitions
- 24.3(22) Requests for access to records
- 24.6(22) Procedure by which additions, dissents, or objections may be entered into certain records
- 24.9(22) Disclosures without the consent of the subject
- 24.10(22) Routine use
- 24.11(22) Consensual disclosure of confidential records
- 24.12(22) Release to subject
- 24.13(22) Availability of records
- 24.14(22) Personally identifiable information
- 24.15(22) Other groups of records
- 24.16(22) Data processing systems
- 24.17(22) Applicability

GENERAL DIVISION

CHAPTER 25

ORGANIZATION AND PROCEDURES

- 25.1(17A,11) Auditor of state
- 25.2(17A,11) Duties of auditor
- 25.3(17A,11) Location of office
- 25.4(17A,11) Distribution of duties
- 25.5 and 25.6 Reserved
- 25.7(17A,11) Staffing
- 25.8(17A,11) Annual audit

- 25.9(17A,11) Reports of audit
- 25.10(17A,11) Declaratory orders
- 25.11(17A,11) Informal settlement

CHAPTER 26
CERTIFICATION OF ACCOUNTING SYSTEMS

- 26.1(17A,7A) Application
- 26.2(17A,7A) Requests to auditor
- 26.3(17A,7A) Investigation
- 26.4(17A,7A) Approval
- 26.5(17A,7A) Appeals

CHAPTER 27
AGENCY PROCEDURE FOR RULE MAKING
(Uniform Rules)

- 27.3(17A) Public rule-making docket
- 27.4(17A) Notice of proposed rule making
- 27.5(17A) Public participation
- 27.6(17A) Regulatory analysis
- 27.10(17A) Exemption from public rule-making procedures
- 27.11(17A) Concise statement of reasons
- 27.13(17A) Agency rule-making record

INDUSTRIAL LOAN DIVISION

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CHAPTER 10

Transferred to Savings and Loan Division[197] under the “umbrella” of the Department of Commerce[181], IAC Supp. 3/25/87.

CHAPTER 11

Transferred to Savings and Loan Division[197] under the “umbrella” of the Department of Commerce[181], IAC Supp. 3/25/87.

CHAPTER 12

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CHAPTER 13

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CHAPTERS 14 to 19

Reserved

LOCAL AUDIT DIVISION

CHAPTER 20

COUNTY AUDITS CONDUCTED BY CERTIFIED PUBLIC ACCOUNTANTS

[Prior to 5/6/87, see Auditor of State[130], Ch 20]
Rescinded IAB 10/2/91, effective 11/6/91.

CHAPTER 21
FILING FEES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

81—21.1(11) Filing fee. A filing fee, as provided for under Iowa Code section 11.6, subsection 10, shall be paid by governmental subdivisions, listed in Iowa Code section 11.6, subsections 1 to 3, for the filing of each audit performed in accordance with those subsections.

21.1(1) The fee shall be remitted according to a fee schedule using six strata based on the budgeted expenditures of the certified budget as last adopted or amended of the governmental subdivision for the fiscal year of the report being filed.

21.1(2) The designated strata and applicable fees are as follows:

Budgeted Expenditures in Millions of Dollars	Fee Amount
Under 1	\$100
At least 1 but less than 3	\$175
At least 3 but less than 5	\$250
At least 5 but less than 10	\$425
At least 10 but less than 25	\$625
25 and over	\$850

21.1(3) The annual fee shall pertain to the fiscal year of the report being filed and not the fiscal year in which the report is filed.

21.1(4) The fee should be remitted to the auditor of state at the same time the report is filed.

21.1(5) Governmental subdivisions shall be notified annually by July 30 of the amount of the fee for reports filed in the fiscal year.

This rule is intended to implement Iowa Code section 11.6, subsection 10.

81—21.2(11) Periodic examination fee. A periodic examination fee, as provided for under Iowa Code section 11.6(11), shall be paid annually by cities that do not otherwise have an audit or fiscal year examination conducted pursuant to Iowa Code section 11.6, subsection 1 or subsection 3, during a fiscal year.

21.2(1) The fee shall be remitted according to a fee schedule using five strata based on the average of actual expenditures of the governmental subdivision for the previous two fiscal years.

21.2(2) The designated strata and applicable fees are as follows:

Budget Expenditures in Thousands of Dollars	Fee Amount
Under 100	\$ 200
At least 100 but less than 250	\$ 550
At least 250 but less than 500	\$ 800
At least 500 but less than 750	\$1,200
750 or more	\$1,500

21.2(3) The fee shall be remitted to the office of auditor of state on or before March 31 each year.

This rule is intended to implement Iowa Code section 11.6(11).

[ARC 1023C, IAB 9/18/13, effective 10/23/13; ARC 4929C, IAB 2/12/20, effective 4/1/20]

[Filed 9/13/91, Notice 3/20/91—published 10/2/91, effective 11/6/91]

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[Filed ARC 4929C (Notice ARC 4787C, IAB 12/4/19), IAB 2/12/20, effective 4/1/20]

CHAPTERS 22 and 23
Reserved

CHAPTER 24
PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

The auditor of state hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relative to public records and fair information practices which are printed in Volume I of the Iowa Administrative Code:

81—24.1(22) Definitions. As used in this chapter:

“Agency.” In lieu of the words “(official or body issuing these rules)”, insert “auditor of state”.

81—24.3(22) Requests for access to records.

24.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “auditor of state”. Also in lieu of the words “(insert agency name and address)”, insert “Auditor of State, State Capitol Building, Des Moines, Iowa 50319”.

24.3(2) Office hours. In lieu of the words “(insert customary office hours and, if agency does not have customary office hours of at least thirty hours a week, insert hours specified in Iowa Code section 24.4)”, insert “which are 8 a.m. to 4:30 p.m., Monday through Friday”.

24.3(7) Fees.

c. Supervisory fee. In lieu of the words “(specify time period)”, insert “one hour”.

81—24.6(22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words “(designate office)”, insert “auditor of state”.

81—24.9(22) Disclosures without the consent of the subject.

24.9(1) Open records are routinely disclosed without the consent of the subject.

24.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in 24.10(22) or in the notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that, the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative services agency under Iowa Code section 2A.3.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

24.9(3) Obtaining information from a third party. The agency is required to obtain information to provide appropriate audit service. Requests to third parties for this information may involve the release of confidential identifying information about individuals.

81—24.10(22) Routine use.

24.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

24.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those supervisory personnel and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may upon request of any supervisory personnel or employee, or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information obtained from or released to staff of federal, state and local entities for audit purposes or for purposes of determining whether the agency or other agencies are operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

81—24.11(22) Consensual disclosure of confidential records.

24.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in 24.7(22).

24.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may be, to the extent permitted by law, treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

81—24.12(22) Release to subject.

24.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in 24.6(22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provisions of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))

d. As otherwise authorized by law.

24.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

81—24.13(22) Availability of records.

24.13(1) *General.* Agency records are open for public inspection and copying unless otherwise provided by rule or law.

24.13(2) *Confidential records.* The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)

b. Tax records made available to the agency. (Iowa Code section 422.72)

c. Records which are exempt from disclosure under Iowa Code section 22.7.

d. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."

e. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial

disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases, when disclosure of these statements would:

- (1) Enable law violators to avoid detection;
- (2) Facilitate disregard of requirements imposed by law; or
- (3) Give a clearly improper advantage to persons who are in an adverse position to the agency. (See Iowa Code sections 17A.2 and 17A.3)

f. Audit working papers and audit reports not yet published or filed. (Iowa Code sections 11.4(6), 11.17 and rule 81—25.9(17A,11))

g. Agency personnel records. (Iowa Code section 22.7(11))

h. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed. R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code sections 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

i. Any other records made confidential by law.

24.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code section 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in 24.4(22). If the agency initially determines that it will release such records, the agency may, where appropriate, notify interested parties and withhold the records from inspection as provided in subrule 24.4(3).

81—24.14(22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in record systems as defined in 24.2(22). For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

24.14(1) Personnel files. Employee personnel files containing information relative to an individual's employment history, such as hiring and recruitment correspondence, salary and payroll and benefit information, record of personnel actions, military status, affirmative action statistics, education and training completed, professional certification achievements, professional organizational involvement, independence statements, performance evaluation reports, personal information data and so on.

These records contain personally identifiable information, collected under the authority of Iowa Code section 19A.11. The information is maintained on paper and certain parts are also contained on the agency's data processing system as well as the state's mainframe automated data processing system. Personal information in employee personnel files is confidential under the authority of Iowa Code section 22.7(11).

24.14(2) Payroll records. Records showing individual earnings, hours worked, leave usage, class, position, salary range, deductions, net pay with agency summaries, and other related information.

These records contain personally identifiable information, collected under the authority of Iowa Code section 91A.6. The information is maintained on paper with certain records maintained on the state's payroll automated data processing system. Certain information contained in these records is confidential under the authority of Iowa Code section 22.7(11).

The information cited in subrules 24.14(1) and 24.14(2) above can be compared between record systems to a limited extent.

24.14(3) Litigation files. These files or records contain information regarding litigation or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and

attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy.

81—24.15(22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in 24.2(22). These records are routinely available to the public. However, the agency's files of these records may contain confidential information as discussed in 24.13(22). In addition, the records listed in 24.15(1) to 24.15(3) may contain information about individuals; however, these records are not retrieved by the name of the individual. All records are stored both on paper and in automated data processing systems unless otherwise noted.

24.15(1) *Published audit reports.* Audit reports and supporting working papers may contain information about individuals working for or doing business with the subject of the audit report. This information is collected pursuant to Iowa Code section 11.4. These reports and working papers are stored both on paper and microfiche records.

24.15(2) *Rule-making records.* Rule-making records may contain information about individuals making written or oral comment on proposed rules. This information is collected pursuant to Iowa Code section 17A.4. This information is not stored in an automated data processing system.

24.15(3) *Publications.* Project reports, agency newsletters, brochures, etc., may contain information about individuals, including agency staff or members of agency committees. This information is not stored in an automated data processing system.

24.15(4) *Published materials.* The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

24.15(5) *Agency employees' handbook.* The agency employees' handbook does not contain information about individuals.

24.15(6) *Other records.* All other records that are not exempted from disclosure by law.

81—24.16(22) Data processing systems. All data processing systems used by the agency for record systems described in 24.14(22) may permit the comparison of personally identifiable information in one record system with personally identifiable information in another record system.

81—24.17(22) Applicability. This chapter does not:

1. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.
2. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code chapter 22.
3. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the rules of another agency.

These rules are intended to implement Iowa Code section 22.11.

[Filed 4/29/88, Notice 3/23/88—published 5/18/88, effective 6/22/88]

GENERAL DIVISION

CHAPTER 25

ORGANIZATION AND PROCEDURES

[Originally Ch 10, renumbered Ch 25 IAC 2/4/81]

[Prior to 5/6/87, see Auditor of State[130], ch 25]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

81—25.1(17A,11) Auditor of state. The auditor of state is a constitutional officer of the state of Iowa, as provided by Article IV, Section 22 of the Constitution of Iowa, as amended in 1972 which provides for the election of the auditor of state by the electorate of Iowa.

81—25.2(17A,11) Duties of auditor. The rights, duties and responsibilities of the auditor of state are prescribed by Iowa Code chapter 11.

81—25.3(17A,11) Location of office. The offices of the auditor of state of Iowa are located at the seat of government at Des Moines, Iowa 50319, and are available to the public during prescribed office hours 8 a.m. to 4:30 p.m., Monday through Friday, or by special appointment in cases of necessity.

81—25.4(17A,11) Distribution of duties. The office of auditor of state has three principal divisions, namely:

25.4(1) The administrative division, under the direct control of the auditor of state, assisted by a deputy and administrative assistants, which exercises control and supervision of all activities of the auditor's office.

25.4(2) The financial audit division, supervised and directed by a deputy appointed by the auditor of state, which is charged with the responsibilities of annual audit of all agencies of the state receiving or expending state funds, as well as audits of local governments such as counties, cities and schools as provided by statute. This division also performs reaudits and provides technical assistance to private citizens, CPA firms, government officials and other governmental agencies.

25.4(3) The performance investigation division, directed by a supervisor appointed by the auditor of state, which is charged with the responsibilities of conducting performance audits of state agencies, investigating suspected embezzlements, and conducting special studies as provided by statute.

[ARC 4245C, IAB 1/16/19, effective 2/20/19]

81—25.5(17A,11) Savings and loan associations. Rescinded ARC 4245C, IAB 1/16/19, effective 2/20/19.

81—25.6(17A,11) Industrial loan companies. Rescinded ARC 4245C, IAB 1/16/19, effective 2/20/19.

81—25.7(17A,11) Staffing. Each of the divisions and agencies of the auditor's office is staffed by auditors and assistants appointed by the auditor of state, as provided for by Iowa Code section 11.31, and other personnel necessary to fulfill the requirements of the auditor's office.

[ARC 4245C, IAB 1/16/19, effective 2/20/19]

81—25.8(17A,11) Annual audit. The statutes of Iowa provide for annual audit of all state offices and departments of the state and the counties and cities and city offices, merged areas and educational agencies and all school districts and school offices except that cities having a population of less than 2,000 shall be examined as otherwise provided.

[ARC 4245C, IAB 1/16/19, effective 2/20/19]

81—25.9(17A,11) Reports of audit. Verified reports of audit are filed at the office of the auditor of state, with the officer or agency audited, the county auditor and board of supervisors of the county audited and the mayor and council of a city audited and with the superintendent and directors of all schools involved.

25.9(1) All reports of audit are open to public inspection after publication and filing by the auditor. A limited number of copies of reports of audit are available to the public and news media.

25.9(2) Preliminary information of investigations or audit are not disclosed except as provided by law. There is to be no disclosure of results of investigation or report of audit until after the officer or agency involved has been notified and furnished a verified copy of such audit. Reports of audit are published by the auditor of state by forwarding a verified copy thereof to the officer or officers of the agency audited. Notice that a report of audit has been published is forwarded immediately thereafter to each newspaper, radio station and television station located in the county, municipality or school district involved.

81—25.10(17A,11) Declaratory orders. A petition for a declaratory order may be filed in writing by competent persons as to the applicability as to any statutory provision, rule or other written statement of law or policy provision or order of the auditor of state. Petitions for a declaratory order shall state the statutory provision, rule or other written statement of law or policy decision or order of the auditor of state in question and shall contain a full statement of the facts being submitted for the auditor of state's consideration.

81—25.11(17A,11) Informal settlement. Informal settlement of controversies that may culminate in contested cases are encouraged. Parties to a controversy may arrange and consent to a meeting for informal settlement of pending controversy. Arrangements therefor may be petitioned for in writing by either party. The time and place for hearing of petition for informal settlement shall be fixed by the agency involved or by mutual consent of the parties thereto.

81—25.12(17A,11) Change of rules. Rescinded IAB 6/16/99, effective 7/21/99.

[Filed 3/17/76, Notice 2/9/76—published 4/5/76, effective 5/10/76]

[Filed emergency 2/2/79—published 2/21/79, effective 2/2/79]

[Filed emergency 1/16/81—published 2/4/81, effective 1/16/81]

[Filed 5/28/99, Notice 4/7/99—published 6/16/99, effective 7/21/99]

[Filed ARC 4245C (Notice ARC 4125C, IAB 11/21/18), IAB 1/16/19, effective 2/20/19]

CHAPTER 26
CERTIFICATION OF ACCOUNTING SYSTEMS

[Originally Ch 11, renumbered Ch 26 IAC 2/4/81]
[Prior to 5/6/87, see Auditor of State[130], Ch 26]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

81—26.1(17A,7A) Application. The governor or any state agency, prior to awarding a grant or purchase of services contract to a private agency who is to be awarded grants exceeding \$150,000 in the aggregate during the fiscal year, shall obtain from the auditor of state, a certification stating that the grantee or contractor has an accounting system adequate to effect compliance with the terms and conditions of the grant or contract.

81—26.2(17A,7A) Requests to auditor.

26.2(1) All requests for certification of the accounting system shall be made in writing to the auditor of state on Form P.S.1, provided by the auditor, or facsimile.

26.2(2) Requests for certification of the accounting system may originate from either the grantee, contractor or the awarding agency.

81—26.3(17A,7A) Investigation.

26.3(1) The investigation shall be conducted by the auditor of state or under the supervision of the auditor of state in accordance with the AU Sections 641 and 9641 of the Codification of Statements of Auditing Standards, issued by the American Institute of Certified Public Accountants, as effective January 22, 1980.

26.3(2) Wherever the grantee or contractor has retained a CPA, the auditor shall rely to the fullest extent possible on the work of the certified public accountant.

81—26.4(17A,7A) Approval.

26.4(1) The auditor of state will make the final determination whether or not an accounting system shall be approved.

26.4(2) The auditor of state shall advise the requesting agency of approval or disapproval within 30 days from the filing of the request.

81—26.5(17A,7A) Appeals.

26.5(1) The grantee or contractor may appeal the decision of the auditor of state to the auditor within ten days of the auditor's notification. The appeal will be reviewed with the grantor and grantee within ten days.

26.5(2) The auditor shall certify the adequacy of the accounting system after the grantee or contractor has corrected the specific deficiencies noted in the disapproval.

26.5(3) The auditor shall not impose any unreasonable record-keeping requirements on the grantee or contractor, nor require additional personnel for improved internal controls whenever the costs would exceed the benefits derived from such controls.

[Filed 2/1/80, Notice 12/12/79—published 2/20/80, effective 3/26/80]

[Filed emergency 1/16/81—published 2/4/81, effective 1/16/81]

CHAPTER 27
AGENCY PROCEDURE FOR RULE MAKING

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

The auditor of state adopts the agency procedure for rule making segment of the Uniform Rules on Agency Procedure printed in the first volume of the Iowa Administrative Code with the following amendments:

81—27.3(17A) Public rule-making docket.

27.3(2) *Anticipated rule making.* In lieu of the words “(commission, board, director)”, insert “auditor of state”.

81—27.4(17A) Notice of proposed rule making.

27.4(3) *Copies of notices.* In lieu of the words “(specify time period)”, insert “one calendar year”.

81—27.5(17A) Public participation.

27.5(1) *Written comments.* Strike the words “(identify office and address) or”.

27.5(5) *Accessibility.* In lieu of the words “(designate office and telephone number)”, insert “the office of auditor of state at (515)281-5834”.

81—27.6(17A) Regulatory analysis.

27.6(2) *Mailing list.* In lieu of the words “(designate office)”, insert “the Office of Auditor of State, State Capitol Building, Des Moines, Iowa 50319”.

81—27.10(17A) Exemption from public rule-making procedures.

27.10(2) *Categories exempt.* In lieu of the words “(List here narrowly drawn classes of rules where such an exemption is justified and a brief statement of the reasons for exempting each of them.)”, insert the following:

“*a.* Rules which are mandated by federal law or regulation in any situation where the auditor of state has no option but to adopt specified rules or where federal funding is contingent upon the adoption of the rules;

“*b.* Rules which implement recent legislation when a statute provides for the usual notice and public participation requirements;

“*c.* Rules which confer a benefit or remove a restriction on the public or some segment of the public;

“*d.* Rules which are necessary because of imminent peril to the public health, safety or welfare; and

“*e.* Nonsubstantive rules intended to correct typographical errors, incorrect citations or other errors in existing rules.”

81—27.11(17A) Concise statement of reasons.

27.11(1) *General.* In lieu of the words “(specify the office and address)”, insert “the Office of Auditor of State, State Capitol Building, Des Moines, Iowa 50319”.

81—27.13(17A) Agency rule-making record.

27.13(2) *Contents.* Amend paragraph “c” by inserting “auditor of state” in lieu of “(agency head)”.

These rules are intended to implement Iowa Code chapter 17A as amended by 1998 Iowa Acts, chapter 1202.

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