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.

51.3(1) *Notice of noncompliance with minimum standards.* Whenever the determination is made that a temporary holding facility is not in compliance with established minimum standards, the chief administrator of the affected governmental facility will be notified by letter posted or personal delivery of the need to bring the facility into compliance. The jail inspection unit shall issue a notice of noncompliance to the responsible facility administrator and the governing body of each instance in which the facility fails to comply with the minimum standards established under these rules. The letter shall contain a listing of the statute(s) and rule(s) with which the facility is not in compliance and a description of the deficiencies and shall specifically identify each minimum standard with which the facility has failed to comply.

51.3(2) *Enforcement of minimum standards; remedial orders.* Upon receipt of a notice of noncompliance pursuant to subrule 51.3(1), the responsible authorities shall initiate appropriate corrective measures within the time prescribed by the jail inspection unit in its notice (which shall not exceed 90 days) and shall complete the corrections within a reasonable time as prescribed by the notice of noncompliance. The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which will bring the facility into compliance within a reasonable time. If the responsible officials receiving notice of noncompliance fail to initiate corrective measures or to complete the corrective measures within the time prescribed, the jail inspection unit may order the facility in question or any portion thereof closed, that further confinement of detainees or classifications of detainees in the noncomplying facility or any portion thereof be prohibited, or that all or any number of detainees then confined be transferred to and maintained in another facility, or any combination of remedies.

An order for closure shall contain the following:

a. Statute(s) and rule(s) violated.

b. A brief description of the deficiencies.

c. The effective date of the order.

d. An explanation of remedies required before reopening.

This order shall be the notice of noncompliance pursuant to Iowa Code section 356.43 and 201—Chapter 12 concerning contested cases. The matter shall then proceed in accordance with 201—Chapter 12. The jail inspector may agree with the responsible authorities to a plan of action detailing corrective steps with corresponding time frames which would bring the facility into compliance within a reasonable time. The remedial order shall be in writing and shall specifically identify each minimum standard with which the facility has failed to comply. Such remedial order shall become final and effective 30 days after receipt thereof. In the event immediate closure is required, emergency action shall proceed pursuant to 201—12.24(17A).

51.3(3) *Precedent.* Because rules cannot adequately anticipate all potential specific factual situations and circumstances presented for action, determination or adjudication by the jail inspection unit, the nature of the action taken with regard to any matter or the disposition of any matter pending before the jail inspection unit is not necessarily of meaningful precedential value, and the department shall not be bound by the precedent of any previous action, determination, or adjudication in the subsequent disposition of any matter pending before it.

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

[**ARC 3929C**, IAB 8/1/18, effective 9/5/18; see Delay note at end of chapter]