

Rule-Writing Style

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2006

Planning the Document

- Identify:
- Authority
 - Objectives
 - Stakeholders

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

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

There is no single approach to organizing a rule. A common method is to begin with a general purpose and then define the terms used throughout the rules. Good organization often makes a difficult rule comprehensible, and preparing a complete outline will facilitate good organization.

Preparing the Document

1. Double space on 8½" × 11" paper using 12-point type.
2. Margins:
 - Top of page: 2 inches on first page, 1 inch on other pages;
 - Left, right and bottom: approximately 1 inch.
3. Indent the first line of each paragraph ½ inch.
4. Number the pages (centered, at bottom).
5. At the top of the first page, center in capital letters the agency name and bracketed agency identification number.
6. Identify the type of rule-making action (centered below the agency name and number):
 - Notice of Intended Action
 - Amended Notice of Intended Action
 - Notice of Termination
 - Notice of Termination and Notice of Intended Action
 - Adopted and Filed
 - Adopted and Filed Without Notice
 - Adopted and Filed Emergency
 - Adopted and Filed Emergency After Notice

Drafting the Preamble

(Every rule-making document begins with a preamble.)

- In the **Notice of Intended Action** preamble, the rule writer must:

1. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the statutory authority for the proposed rule making and indicate the number and title of each chapter to be amended, adopted or rescinded.

2. Summarize the subject matter of and the reasons for the rule making.

3. Establish a deadline which is at least 20 days after the publication date of the Notice of Intended Action for interested parties to submit comments. Give the name, address and telephone number of a contact person for the agency. E-mail addresses and fax numbers may also be included.

4. If a public hearing is to be held, provide the date, time and location. Hold the hearing at least 20 days after the Notice of Intended Action is published.

5. If the rule making necessitates annual expenditures in excess of \$100,000, provide a Fiscal Impact Statement. [§25B.6]

6. Indicate whether the proposed rules or amendments are subject to waiver.

7. Cite the statute that the rules or amendments are intended to implement.

- In the **Amended Notice of Intended Action** preamble, the rule writer must:

1. Cite the specific statutory authority for the rule making.

2. Reference, by ARC number and IAB publication date, the Notice of Intended Action to be amended.

3. Explain how and why the original Notice of Intended Action is being amended.

- In the **Notice of Termination** preamble, the rule writer must:

1. Cite the specific statutory authority for the rule making.

2. Identify, by ARC number and IAB publication date, the Notice of Intended Action to be terminated.

3. Explain why the Notice of Intended Action is being terminated.

- In the preamble for a **Notice of Termination and Notice of Intended Action** prepared as a single document, the rule writer must include all the information required for the preamble of each type of document.

Drafting the Preamble (continued)

- In the **Adopted and Filed** preamble, the rule writer must:

1. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the statutory authority for the rule making and indicate the number and title of each chapter which is amended, adopted or rescinded.

2. Summarize the subject matter of and the reasons for the rule making.

3. Identify, by ARC number and IAB publication date, the Notice of Intended Action. Review the editorial changes made to the Notice of Intended Action document and incorporate appropriate changes into the Adopted and Filed document.

4. Summarize comments received from the public.

5. Explain any substantive changes from the Notice or state that the rules or amendments are identical to those published under Notice of Intended Action.

6. Cite the statute that the rules or amendments are intended to implement.

7. Specify an effective date. The effective date may be no sooner than 35 days after publication of the Adopted and Filed document in the Iowa Administrative Bulletin.

- In the **Adopted and Filed Without Notice** preamble, the rule writer must:

1. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the statutory authority for the rule making and indicate the number and title of each chapter which is amended, adopted or rescinded.

2. Summarize the subject matter of and the reasons for the rule making.

3. Explain, pursuant to Iowa Code section 17A.4(3), why the normal rule-making process regarding notice and public participation was bypassed.

4. Cite the statute that the rules or amendments are intended to implement.

5. Specify an effective date. The effective date may be no sooner than 35 days after publication of the Adopted and Filed Without Notice document in the Iowa Administrative Bulletin.

Drafting the Preamble (continued)

- In the **Adopted and Filed Emergency** preamble, the rule writer must:

1. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the statutory authority for the rule making and indicate the number and title of each chapter which is amended, adopted or rescinded.
2. Summarize the subject matter of and the reasons for the rule making.
3. Explain why, pursuant to Iowa Code section 17A.4(3), the normal rule-making process regarding notice and public participation was bypassed.
4. Explain why, pursuant to Iowa Code section 17A.5(2) “b,” the normal effective date was waived.
5. Cite the statute that the rules or amendments are intended to implement.
6. Specify an effective date. The effective date may be the date the document is filed with the Administrative Rules Coordinator or any date thereafter.

- In the **Adopted and Filed Emergency After Notice** preamble, the rule writer must:

1. Cite the specific section of the Iowa Code or Iowa Acts that gives the agency the statutory authority for the rule making and indicate the number and title of each chapter which is amended, adopted or rescinded.
2. Summarize the subject matter of and the reasons for the rule making.
3. Identify, by ARC number and IAB publication date, the Notice of Intended Action. Review the editorial changes made to the Notice of Intended Action document and incorporate appropriate changes into the Adopted and Filed Emergency After Notice document.
4. Summarize comments received from the public.
5. Explain any substantive changes from the Notice of Intended Action or state that the rules or amendments are identical to those published under Notice of Intended Action.
6. State the reasons, pursuant to Iowa Code section 17A.5(2) “b,” for setting an effective date which is sooner than that allowed by the normal rule-making process.
7. Cite the statute that the rules or amendments are intended to implement.
8. Specify an effective date. The effective date may be the date the document is filed with the Administrative Rules Coordinator or any date thereafter.

Drafting a New Chapter

CHAPTER 1 TITLE OF CHAPTER

(Rule)

481—1.1(237) Catchwords or headnotes (indicate subject matter of rule). Do not indent the rule number. The text of the rule should follow the catchwords. Capitalize only the first word of the catchwords of rules, subrules, paragraphs or subparagraphs.

The agency identification number followed by a dash, e.g., 481—, is used with each rule; 1.1 indicates the first rule in Chapter 1; the number in parentheses, e.g., (237), indicates the Iowa Code chapter which is implemented and this number may vary from rule to rule. A rule may also implement an Iowa Acts chapter or Senate or House File, e.g., (79GA,SF74) or (79GA,ch100).

(Subrules)

1.1(1) Indented ½ inch. (Catchwords optional.)

1.1(2) The second subrule. Do not use only one subrule, paragraph or subparagraph.

(Paragraphs)

a. Indented ½ inch. (Catchwords optional.)

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

(Subparagraphs)

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

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

1. Any of the four segments of a rule may contain a list with Arabic numerals followed by periods.

2. Never use a “1” without a “2.”

- Bullets may be used to call attention to a listing.
- Second entry in listing.

(Implementation)

This rule is intended to implement Iowa Code section 237.10.

481—1.2(76GA,SF174) Second rule in Chapter 1.

Amending Existing Rules

- Follow the most recent version of the Iowa Administrative Code when drafting amendments.
- Amend rules in numerical order.
- Give specific directions in each item statement.
- Strike through words to be deleted; then underscore words to be inserted.
- Strike through whole words and numbers as opposed to individual letters and digits.

Examples:

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

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

Item 2. Rescind subrule 1.1(5) and adopt the following **new** subrule in lieu thereof:

1.1(5) New subrule. Since this is all new language, it is unnecessary to underscore.

Item 3. Amend 481—Chapter 1 by adopting a **new** rule as follows:

481—1.2(10A) Definitions. For rules of the department of inspections and appeals, the following definitions apply:

“Department” means the department of inspections and appeals.

“Director” means the director of the department.

Item 4. Amend subrule 1.5(2) as follows:

1.5(2) Inspections of food Food establishments, including groceries, restaurants, hotels, or charitable, correctional, and penal institutions for licensing determination.

Item 5. Amend rule 481—2.5(147), introductory paragraph, as follows:

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

Item 6. Rescind and reserve rule **481—2.6(147)**.

Item 7. Amend **481—Chapter 2**, implementation clause, as follows:

These rules are intended to implement Iowa Code chapter 135B as amended by 1990 Iowa Acts, chapter 1204.

Examples of Rule-Making Documents

ARC _____

NATURAL RESOURCE COMMISSION[571]

Notice of Intended Action

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

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

Any interested person may make written suggestions or comments on this proposed amendment prior to April 22, 1995. Such written materials should be directed to the Wildlife Bureau, Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-6794. Persons who wish to convey their views orally should contact the Wildlife Bureau at (515)281-6156 or at the Wildlife Bureau offices on the fourth floor of the Wallace State Office Building.

Also, there will be a public hearing on April 22, 1995, at 10 a.m. in the Auditorium of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

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

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

The following amendment is proposed.

Amend rule 571—110.2(481A) by adopting the following **new** subrule:

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

Examples of Rule-Making Documents (continued)

ARC _____

UTILITIES DIVISION[199]

Amended Notice of Intended Action

Pursuant to Iowa Code sections 17A.4(1) and 476.2, the Utilities Board (Board) gives notice that on April 28, 1993, the Board issued an order in Docket No. RMU-92-15, In Re: Filing of Revised Revenue Requirement in Proposed Settlements, “Order Renoticing Rule Making,” to consider the amendment of 199 IAC 7.2(11)“a.”

Notice of Intended Action was published in the January 6, 1993, Iowa Administrative Bulletin as **ARC 3678A**. After receiving oral and written comments from interested parties, the Board has decided to alter the language of the paragraph as it was originally proposed. The Board will notice this proposed language in order to receive further comment. The changes were made in order to specify filing requirements for proposed settlements which produce an agreed-upon revenue requirement without agreement on each revenue requirement issue. The Board does not intend to exclude those types of settlements.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any person may file a written statement of position pertaining to the proposed amendment. The statement must be filed on or before June 15, 1993, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All communications shall clearly indicate the author’s name and address and should make specific reference to this docket. All communications shall be directed to the Executive Secretary, Iowa Utilities Board, Lucas State Office Building, Des Moines, Iowa 50319.

An oral presentation is scheduled on June 21, 1993, at 10 a.m. in the First Floor Hearing Room, Lucas State Office Building, Des Moines, Iowa, for the purpose of receiving comments. Pursuant to 199 IAC 3.7(17A,474), all interested persons may participate in this proceeding. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code sections 17A.4, 17A.7, 17A.10, 476.1, 476.2, and 476.8.

The following amendment is proposed.

Amend paragraph **7.2(11)“a”** as follows:

a. Proposal of settlements. Two or more parties may by written motion propose settlements for adoption by the board. The motion shall contain a statement adequate to advise the board and parties not expressly joining the proposal of its scope and of the grounds on which adoption is urged. Parties may propose a settlement for adoption by the board (1) anytime after docketing and (2) within 30 days after the last day of hearing. In proposed settlements which resolve all revenue requirement issues in a rate case proceeding, parties to the settlement shall jointly file the revenue requirement calculations reflecting the adjustments proposed to be settled. In proposed settlements which resolve some revenue requirement issues in a rate case proceeding and retain some issues for litigation, each party to the settlement who has previously filed a complete revenue requirement calculation shall file its revenue requirement calculation reflecting the adjustments proposed to be settled and any remaining issues to be litigated.

Examples of Rule-Making Documents (continued)

ARC _____

PHARMACY EXAMINERS BOARD[657]

Amended Notice of Intended Action

Pursuant to Iowa Code sections 126.10, 147.76, and 155A.13, the Pharmacy Examiners Board hereby gives notice that a public hearing will be held on Monday, January 10, 1994, at 1 p.m. in the Second Floor East Conference Room, Executive Hills West, 1209 East Court Avenue, Des Moines, Iowa, in order to receive oral or written comments on subrule 8.20(3), regarding requirements for patient counseling when the patient or patient's caregiver is not present, published in the Iowa Administrative Bulletin on October 13, 1993, as **ARC 4318A**.

ARC _____

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Notice of Termination

Pursuant to the authority of Iowa Code sections 159.5(11), 189.2(2), 206A.2, 206A.4, 206A.5, 206A.6, and 206A.7, the Department of Agriculture and Land Stewardship terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on April 13, 1994, as **ARC 4719A**, amending Chapter 45, "Pesticides," Iowa Administrative Code.

The Notice proposed to amend Chapter 45 by adding new rules specifying the requirements for issuing chemigation permits, the operation of irrigation distribution systems, posting land subject to chemigation, and certifying chemigation applicators.

The Department is terminating the rule making commenced in **ARC 4719A** and will renote the proposed rules to incorporate further changes and clarifications to requirements under this chapter.

ARC _____

SOIL CONSERVATION DIVISION[27]

Notice of Termination

Pursuant to the authority of Iowa Code section 161A.4(1), the Division of Soil Conservation terminates the rule making initiated by its Notice of Intended Action published in the Iowa Administrative Bulletin on June 22, 1994, as **ARC 4869A**, proposing to adopt a new Chapter 14, "Levee Reconstruction and Repair Program," Iowa Administrative Code.

This new chapter was also Adopted and Filed Emergency as **ARC 4868A**. The Notice was published to solicit comments and to provide opportunity for a hearing. Since no comments were received, no one appeared at the hearing, and no changes are required to the emergency adopted rules, there is no further need to proceed with rule making for **ARC 4869A**.

Examples of Rule-Making Documents (continued)

ARC _____

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]

Adopted and Filed

Pursuant to the authority of Iowa Code section 455G.4(3), the Iowa Comprehensive Petroleum Underground Storage Tank Fund Board amends Chapter 17, “Appeals—Contested Cases,” Iowa Administrative Code.

This rule allows legal assistants or paralegals to represent the Board and the Administrator in contested case hearings as long as they are supervised by the attorneys from the Office of Attorney General who represent the Board.

Notice of Intended Action was published in the Iowa Administrative Bulletin on December 21, 1994, as **ARC 5325A**. No public comment was received on this rule. In addition, this rule was simultaneously Adopted and Filed Emergency as **ARC 5323A**. This rule is identical to the rule published under Notice of Intended Action and Adopted and Filed Emergency.

This rule was adopted by the Board on February 22, 1995.

This rule shall become effective April 19, 1995, at which time the Adopted and Filed Emergency rule is hereby rescinded.

This rule is intended to implement Iowa Code section 17A.12 and chapter 455G.

The following amendment is adopted.

Amend 591—Chapter 17 by adopting the following **new** rule:

591—17.33(17A,455G) Use of legal assistants or paralegals. The UST board and the administrator may be represented by legal assistants or paralegals at contested case hearings.

Legal assistants or paralegals representing the UST board and the administrator shall be under the supervision of the UST board’s counsel from the office of the attorney general.

Examples of Rule-Making Documents (continued)

ARC _____

PHARMACY EXAMINERS BOARD[657]

Adopted and Filed

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

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

Notice of Intended Action was published in the November 9, 1994, Iowa Administrative Bulletin as **ARC 5210A**. The adopted amendments are identical to those published under Notice.

These amendments were approved during the February 20, 1995, meeting of the Board of Pharmacy Examiners.

These amendments will become effective on May 31, 1995.

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

The following amendments are adopted.

ITEM 1. Amend rule 657—17.8(155A) by adopting the following **new** subrule:

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

ITEM 2. Amend rule 657—17.10(155A) by adopting the following **new** subrule:

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

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

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

Examples of Rule-Making Documents (continued)

ARC _____

INSURANCE DIVISION[191]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code section 514D.3, the Insurance Division hereby rescinds Chapter 41, “Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Repeal of Medicare Catastrophic Coverage Act,” Iowa Administrative Code.

This amendment rescinds the rules which required all insurers selling Medicare Supplement insurance to adjust their policies and premiums to conform to changes in Medicare brought about by repeal of the Medicare Catastrophic Coverage Act of 1988. The rules also required insurers to notify all of their policyholders of the changes in Medicare and the resulting changes in the benefits and premiums of their Medicare Supplement insurance. These rules are no longer necessary because Medicare Supplement policies have been standardized due to federal requirements.

In compliance with Iowa Code section 17A.4(2), the Division finds that notice and public participation are unnecessary because Medicare Supplement policies have been standardized due to federal requirements; and many of the requirements set forth in Chapter 41 have been incorporated in Chapter 37, “Medicare Supplement Insurance Minimum Standards,” Iowa Administrative Code.

This amendment shall become effective September 7, 1994.

This amendment is intended to implement Iowa Code section 514D.3.

The following amendment is adopted.

Rescind and reserve **191—Chapter 41**.

Examples of Rule-Making Documents (continued)

ARC _____

EDUCATIONAL EXAMINERS BOARD[282]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 1, “General,” Iowa Administrative Code.

The purpose of this amendment is to change the date for the election of the chair set out in subrule 1.2(5), paragraph “b.” The date in the current rule does not reflect the term of Board members. April 30 is the date on which a term expires; thus, to provide for the orderly election of the chair, the date will be changed to reflect the term factor for Board members.

In compliance with Iowa Code section 17A.4(2), the Board finds that notice and public participation are unnecessary because the amendment simply changes the election date and has no other effect on licensure or professional practices.

The Board also finds, pursuant to Iowa Code section 17A.5(2) “b”(2), that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing, as it confers a benefit on the working procedures of the Board.

The Board of Educational Examiners adopted this amendment on January 6, 1995.

This amendment will become effective on February 21, 1995.

This amendment is intended to implement Iowa Code chapter 272.

The following amendment is adopted.

Amend subrule **1.2(5)**, paragraph “b,” as follows:

b. The director of the department of education is the designated chair of the board; however, if the director does not serve on the board, the director shall appoint a designee. If the director does not sit on the board, the board shall biennially, at its last regularly scheduled meeting prior to ~~July 1,~~ May 1, elect a chair from its membership to begin serving on ~~July 1~~ May 1.

Examples of Rule-Making Documents (continued)

ARC _____

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 88.5 and 17A.3(1), the Labor Commissioner amends Chapter 26, "Construction Safety and Health Rules," Iowa Administrative Code.

The amendment relates to a correction to the powered industrial truck operator training rules previously adopted.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 25, 1999, as **ARC 9290A**.

In compliance with Iowa Code section 88.5(1) "b," a public hearing was scheduled for September 22, 1999. No comments were received.

This amendment is identical to the Notice of Intended Action.

Pursuant to Iowa Code section 17A.5(2) "b"(2) and (3), this amendment shall become effective upon publication on January 26, 2000. The Commissioner finds that this amendment confers a benefit on employees by permitting them to be provided with safety and health equal those found in states under federal OSHA's jurisdiction and is necessary because of the safety and health of employees in this state.

This amendment is intended to implement Iowa Code section 88.5.

The amendment will become effective January 26, 2000.

The following amendment is adopted.

Amend rule **875—26.1(88)** by inserting at the end thereof:

64 Fed. Reg. 22552 (April 27, 1999)

“Double Barreling”

1. The simultaneous submission of an Adopted and Filed Emergency document and a Notice of Intended Action pertaining to the same rules or amendments is known as “double barreling.”

- Each document must cross-reference the other document by ARC number.
- The Notice of Intended Action document may, at the end of the preamble, incorporate by reference the content of the Adopted and Filed Emergency rule making.

Example of “Double Barreling”

ARC 5051A

GENERAL SERVICES DEPARTMENT[401]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 18.27, the Department of General Services proposes to amend Chapter 5, “Printing Division,” Iowa Administrative Code.

This amendment to rule 5.8(18) implements changes in policy governing the system of uniform standards for printing purchasing. This change is the result of targeted small business legislation in 1994 Iowa Acts, House File 2403.

Consideration will be given to all written suggestions or comments on the proposed amendments on or before September 20, 1994. Such written materials should be sent to the Director’s Office, Department of General Services, Hoover State Office Building, Des Moines, Iowa 50319; fax (515)242-5974.

Also, there will be a public hearing on September 21, 1994, at 1 p.m. in the Director’s Conference Room, Department of General Services, Hoover State Office Building, Level A, Des Moines, Iowa, at which time persons may present their views.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 5052A**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code section 18.6.

NOTE: Set out full text of the rule making only in the emergency document.

Example—“Double Barreling” (continued)

ARC 5052A

GENERAL SERVICES DEPARTMENT[401]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 18.27, the Department of General Services hereby amends Chapter 5, “Printing Division,” Iowa Administrative Code.

This amendment to rule 5.8(18) implements changes in policy governing the system of uniform standards for printing purchasing. This change is the result of targeted small business legislation in 1994 Iowa Acts, House File 2403.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable because of the immediate need for rule change to implement new provisions of this law.

The Department also finds, pursuant to Iowa Code section 17A.5(2) “b”(2), that the normal effective date of the amendment should be waived and this amendment should be made effective upon filing with the Administrative Rules Coordinator on August 12, 1994, as it confers a benefit upon targeted small businesses.

The Department of General Services adopted this amendment on August 12, 1994.

This amendment is also published herein under Notice of Intended Action as **ARC 5051A** to allow public comment. This emergency filing permits the Department to implement the new provisions of the law.

This amendment is intended to implement Iowa Code section 18.6.

This amendment became effective August 12, 1994.

The following amendment is adopted.

Amend rule 401—5.8(18) as follows:

401—5.8(18) Methods of procurement used by printing division. The department of general services, printing division, shall purchase by competitive bids all printing for state agencies in Des Moines, except those items produced by centralized printing. Printed items costing \$2,000 or more for the regents institutions and the department of transportation in Ames shall also be purchased by competitive bids through the printing division office. Items costing less than \$2,000 at the regents institutions and the department of transportation shall be purchased by an appointed assistant at the respective state agency.

Agencies may purchase directly from targeted small businesses. All agencies shall make a concerted effort to comply with targeted small business goals established pursuant to Iowa Code subsection 73.16(2). Prior to making any printing purchase, agencies shall determine whether the printing goods or services sought by the agency are available from a targeted small business. Upon request, the purchasing section and printing division will assist an agency in locating a targeted small business capable of providing specific printing goods and services.

Notwithstanding this rule, rules 401—7.1(18) and 7.20(18), or any other rule which may conflict with this rule, agencies may purchase directly from a vendor if the vendor is a certified targeted small business and the purchase does not exceed \$5,000. An agency purchasing printing goods and services directly from a targeted small business shall complete an official state printing order.

Adopting Uniform Rules

In 1987 a gubernatorial task force completed work on a uniform set of rules establishing an agency procedure for rule making. The intention was that all agencies would follow the same rule-making procedures, and many agencies have adopted the uniform rules by reference.

These uniform rules do not simply parrot the requirements of Iowa Code sections 17A.4 and 17A.5; they establish procedural requirements beyond the letter of the statute. These requirements are an attempt to maximize public access, awareness and participation in the rule-making process. Once these rules have been adopted by an agency, they have the force and effect of law, even though they go beyond the actual requirements of Iowa Code chapter 17A.

All agencies should carefully review these rules, especially “Agency Procedure for Rule Making,” uniform rule X.17(17A). This rule requires agencies to review their rules and decisions of particular applicability (e.g., contested cases) at least every five years.

Agencies are encouraged to adopt by reference the Uniform Rules of the Governor’s Task Force as they are published in the first volume of the IAC (following green tab). Any exceptions to the Uniform Rules should be set out. Many agencies have assigned individual chapter numbers for each segment leaving reserved chapter numbers for future expansion.

An agency adopting fair information practices rules should include Iowa Code section 22.11 in addition to the agency’s specific rule-making authority.

When adopting uniform rules, do not repeat the statute in the introduction or in the text of the rules. The purpose of rule making is to further clarify and set out in greater detail a particular procedure which is authorized by statute.

Example of Adopting Uniform Rules by Reference

The department of inspections and appeals hereby adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to fair information practices which are printed in the first volume of the Iowa Administrative Code.

CHAPTER 5 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

481—5.1(17A,22) Definitions.

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

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

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

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

Deadlines and Dates

The deadline for submitting documents to be published in the IAB is 19 days prior to the publication date. Filing deadlines and publication dates are printed in each IAB in the Schedule for Rule Making. Rules will not be accepted after 12 noon on the Friday filing deadline unless prior approval has been received from the Administrative Rules Coordinator (ARC). If the filing deadline falls on a legal holiday, submissions made on the following Monday may be accepted. Possible exceptions are Thanksgiving, Christmas, and New Year's Day.

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

PUBLIC HEARINGS AND WRITTEN COMMENTS

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

ADOPTING A RULE

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

TERMINATING A NOTICE

If the agency fails to adopt the rule within the 180-day time frame, it must terminate the proceedings by publishing a Notice of Termination in the Iowa Administrative Bulletin. [§17A.4(1) "b"]

EFFECTIVE DATE

- Adopted and Filed:** These rules or amendments may become effective 35 days after publication in the IAB, unless a later date is specified by the agency.

- Adopted and Filed Emergency:** These rules or amendments may become effective upon filing with the ARC or at a later date specified by the agency.

- Adopted and Filed Emergency After Notice:** These rules or amendments may become effective upon filing with the ARC or at a later date specified by the agency.

- Adopted and Filed Without Notice:** These rules or amendments may become effective 35 days after publication in the IAB, unless a later date is specified by the agency.

REGULATORY ANALYSIS

The agency shall issue a Regulatory Analysis if, within 32 days after publication of the notice, a written request is filed with the agency by the Administrative Rules Review Committee (ARRC), the ARC, at least 25 small business persons signing the request, or a registered organization representing at least 25 persons.

A concise summary of the Regulatory Analysis must be published in the IAB 20 days prior to the adoption of the rule. In the case of a rule adopted emergency or without notice, 70 days are allowed for publishing of the summary. [§17A.4A]

Style Guidelines

The drafter of an administrative rule is confronted with the task of incorporating the purpose of the rule into a coherent, readable text. A major purpose of this manual is to help the drafter and provide principles of style which make it possible to avoid ambiguity and write in “plain English.” Most of these principles are derived from generally accepted style and usage manuals. These guidelines address only the most common rules and are not intended as a comprehensive grammar and usage book. If this manual does not answer a question of style or usage, the writer should refer to *The Gregg Reference Manual*, Eighth Edition, which is used by the editors of the Iowa Administrative Code. In addition, the drafter may direct questions to the Administrative Code Editor.

A. Consistency

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

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

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

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

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

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

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

B. Simplicity

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

1. Use familiar words and phrases that best express the intended meaning according to common and approved usage. Do not use jargon, slang, overly technical language, “legalese,” or foreign phrases (including Latin legal terms) unless the word or phrase is a term of art or its use is supported by substantial case law.
2. Use short words and sentences.
3. If it is possible to omit a word and retain the desired meaning, omit the word.
4. Do not use superfluous and indefinite terms such as “real,” “actual,” “true,” “duly,” “to wit,” “whatsoever,” “current,” and “therewith.”

C. Clarity

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

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

| | DO NOT WRITE: | IF YOU MEAN: |
|--|---------------|--------------|
| | vehicles | automobiles |
| | firearms | handguns |
| | aircraft | helicopters |

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

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

3. Avoid split infinitives.

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

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

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

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

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

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

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

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

Verb Tense

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

A. Present Tense

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

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

B. Time Relationships

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

Voice

A. Active Voice

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

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

B. Action Verbs

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

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

C. Positive Voice

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

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

Avoid several negatives in one sentence.

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

Number and Gender

A. Singular and Plural

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

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

B. Compound Terms

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

SINGULAR:

attorney general
corporation counsel
lieutenant governor
notary public
right-of-way

PLURAL:

attorneys general
corporation counsels
lieutenant governors
notaries public
rights-of-way

C. Agreement

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

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

D. Gender

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

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

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

2. Substitute a noun for the pronoun.

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

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

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

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

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

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

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

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

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

Structure and Word Selection

A. Exceptions

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

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

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

Examples:

- (1) Except as provided in rule . . . , the director shall . . .
- (2) Records retained by the commission are open records except for the following:
 - 1.
 - 2.
 - 3.

B. Conditions

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

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

C. Limitations

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

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

D. Provisos

Provisos are archaic and usually result in unintelligible phrases. Expressions such as “provided that,” “provided further that,” and similar phrases should not be used. In most cases, rearranging the sentence will eliminate the need for the proviso. If the clause modified by a proviso is a complete thought, it should always be rewritten as a complete sentence. If the proviso is rewritten as an exception or condition, principles discussed above should be followed in drafting the exception or condition.

E. Enumerations

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

Example: This rule does not apply to:

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

F. Paragraphs

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

G. Abbreviations and Acronyms

Avoid most abbreviations. Abbreviations and acronyms may cause ambiguity in rules and, therefore, should be used sparingly if at all. Use abbreviations to reference other laws (U.S.C.) and to indicate the time of day (a.m., p.m.).

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

H. Symbols

Symbols should not be used in rule drafting except in special cases. Some symbols serve as commands for computer programs and their use within the rule text may cause undesired results. Often symbols will not translate between computer systems or programs.

REMEMBER: When in doubt, spell it out!

I. Official Titles

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

J. Special Terms

- And/Or

Never use “and/or.” The writer should be able to determine which term is correct. If all the items in an enumeration are to be taken together, the last two items may be joined by the conjunction “and.” If the items are to be taken in the alternative, “or” is used. The drafter may also use “or both” or a similar phrase.

- Notwithstanding

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

- Regulations

“Rules” and “regulations” are two different things. “Rules” are made by administrative agencies in this state and are referred to as such in official publications. The term “regulations” refers to federal regulations.

- Sections

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

Tips Worth Repeating

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

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

- Use “shall” to impose a duty; “will” to reflect future tense, and “may” to denote an option.

- When rules are renumbered or rescinded, references to those rules must also be changed.

- Avoid using the following:

- he/she, him/her, or any reference to one gender when both are intended;

- now; presently; previously; currently; hereafter;

- and/or (courts have held this to be a meaningless expression).

- Spell out numbers from one through ten; use figures for numbers above ten.

- Use figures for numbers that have technical significance or need to stand out for quick comprehension, e.g., in tables, charts, percentages, money, ratios, clock time, dates, measurements.

- Abbreviations and acronyms may be used if they have been defined in the rules.

- Arrange definitions in alphabetical sequence and do not number them.

Incorporation by Reference

A. Generally

Incorporation by reference is a legal tool that allows an agency to take a standard published by another entity and make it an enforceable part of the agency's rule without reprinting the entire text in its rule. The factors to consider when deciding to incorporate material by reference include:

- The statutory parameters;
- The importance of the incorporated material to the rule;
- The need to enforce standards as part of the rule; and
- The availability of the incorporated material.

B. Use of Incorporation

The advantages of incorporating material by reference include: (1) eliminating errors that may be introduced when material is transcribed into rule format; (2) encouraging consistency in the state's implementation of the external requirements; (3) simplifying updates—the agency need only change a single date instead of retyping vast amounts of text; and (4) eliminating the expense of republishing material that is already publicly available.

C. Procedure

When an agency incorporates by reference, the agency is required to provide a copy of the publication containing the material adopted by reference to the Administrative Rules Coordinator, who shall deposit the copy in the state law library where it shall remain available for public inspection and reference.

The agency should explicitly state that the material is “incorporated by reference” and state the date, issue, or version of the material being incorporated. Rule writers should keep in mind that the courts have invalidated prospective incorporation by reference; therefore, phrases like “as amended” or “including future amendments” should be avoided.

Spelling, Punctuation, Capitalization, Numerical References

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

Glossary

| | |
|---|--|
| ACTS (SESSION LAWS) | The Acts (laws) passed by each General Assembly and published in bound form. |
| ADMINISTRATIVE LAW JUDGE | Presiding officer at a contested case hearing. (Prior to 1988, known as “hearing officer.”) |
| ADMINISTRATIVE RULES REVIEW COMMITTEE (ARRC) | The ten-member, bipartisan legislative committee composed of five senators appointed by the Majority Leader of the Senate and five representatives appointed by the Speaker of the House. The Administrative Rules Review Committee has both substantive and advisory powers. |
| ADOPTED AND FILED | Publication of this document is the second step in the normal rule-making process. Adoption or amendment of a rule may take place no sooner than 35 days after publication of the Notice of Intended Action in the Iowa Administrative Bulletin. Rules so adopted or amended shall not become effective until 35 days after publication of the agency’s Adopted and Filed document in the IAB. |
| ADOPTED AND FILED EMERGENCY | With this document, an agency adopts, amends or rescinds a rule without providing for notice and public participation. The action may become effective immediately upon filing the document with the Administrative Rules Coordinator, or a later date may be specified. [§17A.4(3) and 17A.5(2)“b”] |
| ADOPTED AND FILED EMERGENCY AFTER NOTICE | With this document, an agency that has caused to be published a Notice of Intended Action and allowed for public comment may waive the second 35-day waiting period for an earlier effective date. [§17A.4(1) and 17A.5(2)“b”] |
| ADOPTED AND FILED WITHOUT NOTICE | With this document, an agency, under certain circumstances, may adopt, amend or rescind rules without providing for notice and public participation. The effective date of a rule Adopted and Filed Without Notice is a minimum of 35 days after publication of the adoption in the Iowa Administrative Bulletin. [§17A.4(3)] |
| AGENCY | Each board, commission, department, officer or other administrative office or unit of the state. “Agency” does not mean the General Assembly, the Judicial Branch or any of its components, the Office of Consumer Advocate, the Governor or a political subdivision of the state or its offices and units. [§17A.2] |
| AGENCY NUMBER | Bracketed identification number following the agency name in the Iowa Administrative Code and the Iowa Administrative Bulletin. This number is assigned by the Administrative Code Editor and must precede each rule number. The agency identification number remains the same unless the legislature changes the name of the agency. A working list of agency identification numbers is published in the IAB and IAC. |
| AMENDED NOTICE OF INTENDED ACTION | This document must be published when the Notice of Intended Action did not provide for a public hearing, but one was timely requested in writing pursuant to Iowa Code section 17A.4(1)“b.” The Amended Notice of Intended Action shall announce the date, time and location of the public hearing. Also, an agency may submit for publication an Amended Notice of Intended Action to solicit further public participation on substantive changes to the Notice. |
| APA | Administrative Procedure Act. |

| | |
|---------------------------|--|
| ARC NUMBER | <p>The identification number assigned by the Governor’s Administrative Rules Coordinator (ARC) to each rule-making document submitted for publication. [§17A.2(4)]</p> <p>Every submission or filing has a different number. Documents are numbered in sequence in the order in which they arrive in the office of the Administrative Rules Coordinator. In this sequential numbering, no distinction is made between the types of rules (noticed, adopted, etc.). The noticed and adopted documents of the same rule will have different ARC numbers because they are two separate submissions and, except for some emergency filings, they were submitted at different times. However, all submissions pertaining to the same rule are cross-referenced in the ARC’s records.</p> <p>A log of all documents is maintained in the ARC’s office.</p> |
| AUTHORITY FOR RULE MAKING | <p>Each rule making must reference the Iowa statute delegating rule-making power to the agency. That authority shall be cited at the beginning of each rule making and should be a section of the Iowa Code or Code Supplement as opposed to a chapter. It may be necessary to cite a section of an Acts chapter or Senate or House File.</p> <p>As long as an agency has authority to act, the absence of specific rule-making authority is not critical since Iowa Code section 17A.3 requires rules for all policies that affect the general public.</p> |
| CFR | Code of Federal Regulations. When citing CFRs in a rule, a date certain shall be included. |
| CONCISE STATEMENT | If requested to do so by an interested person, either prior to adoption or within 30 days thereafter, the agency shall issue a Concise Statement of the principal reasons for and against the rule it adopted. [§17A.4(2)] |
| DELAY | The Administrative Rules Review Committee may delay the effective date of a rule 70 days for further study or until adjournment of the next General Assembly. Notification of this fact shall be published in the IAB and IAC. [§§17A.4(6) and 17A.8(9)] |
| “DOUBLE BARRELING” | <p>An expression used for simultaneous submission of Notice of Intended Action and Adopted and Filed Emergency rule-making documents.</p> <p>The emergency rule making should be regarded as an interim stopgap measure, and the agency must fully consider all comments received in the regular rule-making process.</p> |
| EQUAL ACCESS OF JUSTICE | Legislation which, in some cases, allows a citizen to collect costs and attorney fees in litigation involving state agencies. See Iowa Code section 625.29. |
| EXECUTIVE ORDER | <p>The Governor may rescind an adopted rule by Executive Order within 70 days of the rule’s becoming effective. The Order shall be published in the Iowa Administrative Bulletin. [§17A.4(8)]</p> <p>All Executive Orders and Proclamations of the Governor which are general and permanent in nature are also published in the IAB. [§17A.6(1) “b”]</p> |
| FISCAL IMPACT STATEMENT | See Iowa Code section 25B.6 reproduced following chapter 17A (yellow tab) herein. |
| HEARING | The term for oral presentation as prescribed in Iowa Code section 17A.4(1) “b.” |
| HEARING OFFICER | See Administrative Law Judge. |

| | |
|---------------------------------------|---|
| HISTORY | A chronological record of rule-making actions. This information appears at the end of each chapter of rules in the Iowa Administrative Code. Liability for violation of a rule is fixed to that particular rule as it appeared on a specific date. |
| IAB | The Iowa Administrative Bulletin (IAB) is published in pamphlet form (8½" × 11" newsprint) every other Wednesday. It contains Notices of Intended Action and rules adopted by state agencies; Proclamations and Executive Orders; Delays and Objections; Regulatory Analyses; Fiscal Impact Statements; Agenda of Administrative Rules Review Committee meetings; Schedule for Rule Making; List of Public Hearings; Supreme Court Decisions summarized; Opinions of the Attorney General summarized; other material mandated by the General Assembly or deemed appropriate by the Administrative Rules Review Committee. |
| IAC | The Iowa Administrative Code (IAC) is the loose-leaf compilation of rules promulgated by state agencies and supplemented biweekly. Prior to July 1, 1975, this compilation was entitled "Iowa Departmental Rules" and was supplemented every six months. |
| IAPA | The Iowa Administrative Procedure Act adopted July 1, 1975. [Iowa Code chapter 17A] |
| IMPLEMENTATION | In prescribing style and form, the Administrative Rules Coordinator shall require that the agency include a reference to the statute which the rules are intended to implement. Each rule making shall include a reference to the Iowa statute, executive order, federal statute or regulation which the rules carry out. [§7.17] |
| IOWA CODE | The compilation of the laws of Iowa as promulgated by the legislature. |
| NOTICE OF INTENDED ACTION | This document declares an agency's intent to adopt, amend or rescind a rule. Pursuant to Iowa Code section 17A.4(1), publication of a Notice of Intended Action in the Iowa Administrative Bulletin shall precede the adoption, amendment or rescission by at least 35 days. |
| NOTICE OF TERMINATION | <p>Pursuant to Iowa Code section 17A.4(1) "b," an agency shall terminate any rule-making proceeding that has not been adopted within 180 days of publication of the Notice of Intended Action or the last date of oral presentation, whichever is later.</p> <p>An agency may elect to terminate any Notice of Intended Action in lieu of adoption.</p> <p>In the situation of "double barreling," when no comments were received or no substantive changes were made following the Notice, it is appropriate to terminate a Notice.</p> |
| NULLIFICATION OF ADMINISTRATIVE RULES | <p>The General Assembly may nullify an adopted administrative rule of a state agency by passage of a Joint Resolution by a majority of all of the members of each house of the General Assembly. [Excerpt from Article III[38], Constitution of Iowa]</p> <p>The Administrative Code Editor shall publish the Joint Resolution in the Iowa Administrative Bulletin and cause to be omitted from the Iowa Administrative Code all rules which have been nullified. [§17A.6]</p> |

| | |
|---------------------------------------|---|
| OBJECTION | <p>There are two types of Objections to rules which may be imposed by the Administrative Rules Review Committee, the Governor, or the Attorney General.</p> <p>(1) An objection to an emergency adoption by an agency that for good cause finds that notice and public participation would be unnecessary, impracticable or contrary to public interest. With this objection the rule would cease to be effective 180 days after the date the objection was filed. [§17A.4(3)]</p> <p>(2) An objection to a proposed, adopted or emergency rule which the ARRC, Governor or Attorney General deems to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency.</p> <p>The burden of proof shall be on the agency in any proceeding for judicial review or enforcement of the rule subsequent to the filing of the objection. [§17A.4(6) “a”]</p> <p>A certified copy of any Objection shall be filed with the Administrative Code Editor and published in the Iowa Administrative Bulletin and Iowa Administrative Code.</p> |
| ORAL PRESENTATION | This term is synonymous with “public hearing.” [§17A.4] |
| PERMANENT REGISTER (DEPOSITORY) | The ARC shall keep a permanent register of all rules open to public inspection. (Prior to July 1, 1978, the Secretary of State served as depository.) |
| PREAMBLE OR INTRODUCTION | <p>The explanatory paragraphs that preface each rule-making document. Examples are reproduced herein.</p> <p>Also, a preamble summarizing intent of rules is occasionally inserted before the first rule in a chapter.</p> |
| PROPOSAL | Synonymous with Notice or Notice of Intended Action. |
| REFERRAL TO GENERAL ASSEMBLY | The Administrative Rules Review Committee may refer a rule to the Speaker of the House and the President of the Senate. Those officers may then refer such a rule to the appropriate standing committee of the General Assembly for study. The Committee may include a recommendation that a rule be overcome by statute. This action does not change the effective date of a rule. [§17A.8(7),(8)] |
| REGULATORY ANALYSIS | On written request by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 small business persons signing the request, or a registered organization representing at least 25 persons, the agency shall issue a Regulatory Analysis. A summary of this analysis must be published in the Iowa Administrative Bulletin. [§17A.4A] |
| RESCISSION BY GOVERNOR | The Governor may rescind an adopted rule by Executive Order within 70 days of the effective date of the rule. The Executive Order shall be published in the Iowa Administrative Bulletin. [§17A.4(8)] |
| RULE | An agency statement that is the equivalent of statutory law. It differs from statute in that it is adopted by an administrative body as opposed to the legislature, and it affects the general public as opposed to specific individuals. Numerous exceptions to the definition of “Rule” are set out in Iowa Code section 17A.2(11). |
| SCHEDULE FOR RULE MAKING | Table of time frames for the various steps of rule making. This table is updated annually and is published in the IAB and IAC. |
| STATE MANDATES ACT | Iowa Code section 25B.6 sets out requirements for Fiscal Impact Statements relative to rule making. Iowa Code chapter 25B is reproduced herein following Iowa Code chapter 17A (yellow tab). |

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| TABLE OF CORRESPONDING NUMBERS | Published in the IAC when major renumbering of rules is necessary. The table appears at the beginning of the chapter analysis of the agency involved. |
| TABLE OF RULES IMPLEMENTING STATUTES | A compilation listing Iowa Statutes, Executive Orders, Federal Regulations, Public Laws, and U.S. Code which are implemented by Iowa Administrative Rules. The table is updated periodically and appears in the first volume of the Iowa Administrative Code. |
| UNIFORM RULES | Rules of Agency Procedure for Rule Making, Petitions for Rule Making, Declaratory Orders, Fair Information Practices and Contested Cases developed by the Governor's Task Force. These rules are suitable for adoption by reference by most state agencies and are published herein under the green tab in the first volume of the Iowa Administrative Code. |
| U.S.C. | United States Code. |
| VETO | This term is not used in the Iowa Administrative Procedure Act, but is descriptive of the rescission process by which the Governor disapproves a rule. [§17A.4(8)] |