IOWA ADMINISTRATIVE BULLETIN

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PREFACE

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

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

The Bulletin may also contain public funds interest rates [12C.6]; usury rates [535.2(3)"a"]; agricultural credit corporation maximum loan rates [535.12]; and other items required by statute to be published in the Bulletin.

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

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CITATION of Administrative Rules

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

This citation format applies only to external citations to the Iowa Administrative Code or Iowa Administrative Bulletin and does not apply to citations within the Iowa Administrative Code or Iowa Administrative Bulletin.

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

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

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

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

AGING, DEPARTMENT ON[17]

Commission on aging; aging and disability resource center; rescind chs 3, 23 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 232 231 861 969 Passcode: pR9LS7jB	February 25, 2025 10 to 10:30 a.m.

ALCOHOLIC BEVERAGES DIVISION[185]

Retail alcohol licenses—beer permits—wine permits; license and permit division; transportation and warehouse; personal importation of alcoholic liquor, wine, and beer; trade practices, rescind chs 4, 5, 8, 9, 16; private wine sales, rescind ch 14 IAB 2/5/25 **ARCs 8730C**, **8731C**	Via video/conference call meet.google.com/cec-wnfw-kxv Via video/conference call meet.google.com/rxw-nuwh-sdj	February 25, 2025 10 to 11 a.m. February 25, 2025 2 to 3 p.m.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Drinking water state revolving fund, ch 44; scope of title—definitions—forms; clean water state revolving fund, adopt ch 90; rescind chs 91, 92, 93 IAB 1/8/25 **ARCs 8625C**, **8637C**	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	February 5, 2025 9 to 10 a.m. February 6, 2025 10 to 11 a.m.
Operator certification: public water supply systems and wastewater treatment systems, ch 81 IAB 1/8/25 **ARC 8600C**	Virtual meeting registration link will be provided prior to the hearing. More information: www.iowadnr.gov/Environmental-Protection/Land-Quality/Land-Quality-Rulemaking	February 5, 2025 2 to 3 p.m.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT[605]

Local emergency management, ch 7 IAB 1/22/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif	February 11, 2025 9:30 a.m.
Criteria for awards or grants, ch 8; IAB 1/22/25 **Regulatory Analyses**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif	February 11, 2025 8:30 a.m.
Mass notification and emergency messaging system, ch 15 IAB 1/22/25 **Regulatory Analysis**	Geode Room 7900 Hickman Road, Suite 500 Windsor Heights, Iowa meet.google.com/oqm-wujn-dif	February 11, 2025 9 a.m.

HUMAN RIGHTS DEPARTMENT[421]

Functions of division, rescind ch 40; Hall of fame, rescind ch 41 IAB 2/5/25 **ARCs 8895C**, **8896C**	Microsoft Teams Meeting ID: 293 791 757 499 Passcode: J89nS3mT Microsoft Teams Meeting ID: 231 190 332 126 Passcode: pT22DL3n	February 25, 2025 10:30 a.m. February 25, 2025 2:30 p.m.

HUMAN SERVICES DEPARTMENT[441]

Behavioral health services, rescind chs 25, 34, adopt chs 300 to 302, 304, 305, 310 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 216 732 111 056 Passcode: Ww7oS3uS	February 25, 2025 3 p.m.
Mental health institutes and resource centers, chs 28 to 30 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 235 677 637 435 Passcode: Nv7Ti9Jq	February 25, 2025 9:30 a.m.
Disability services definitions; disability services advisory councils; disability services; aging and disability resource centers, chs 221 to 224, 229 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams Meeting ID: 221 098 147 560 Passcode: LZ7452C4	February 25, 2025 11 a.m. to 12 noon

INSPECTIONS AND APPEALS DEPARTMENT[481]

Administration, ch 1 IAB 1/22/25 **Regulatory Analysis**	6200 Park Avenue, Suite 100 Des Moines, Iowa	February 12, 2025 12:30 p.m.

INSURANCE DIVISION[191]

Timely payment of pharmacy claims, 59.3 IAB 2/5/25 **Regulatory Analysis**	Suite 100 1963 Bell Avenue Des Moines, Iowa	February 28, 2025 11 a.m.

LABOR SERVICES DIVISION[875]

Federal occupational safety and health standards for hazardous chemicals—adoption by reference, 10.4 IAB 2/5/25 **ARC 8864C**	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	February 25, 2025 9 to 9:15 a.m. February 26, 2025 9 to 9:15 a.m.
Personal protective equipment in construction—adoption by reference, 26.1 IAB 1/22/25 **Regulatory Analysis**	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa	February 11, 2025 9:30 to 10 a.m.

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Description of organization, ch 1; examinations and licensing, ch 2; continuing education, ch 3; rules of professional conduct and discipline procedures, ch 4 IAB 1/22/25 **ARCs 8764C**, **8765C**, **8766C**, **8769C**	6200 Park Avenue Des Moines, Iowa Via Zoom: us02web.zoom.us/j/84519372629?pwd=MCQHjkUE42fpU2BV3ta7brjCE0dJY1.1 6200 Park Avenue Des Moines, Iowa Via Zoom: us02web.zoom.us/j/87479125519?pwd=grl7giYJD1GhCGwPvAGT1E5ej8ul6o.1	February 13, 2025 9 to 9:20 a.m. February 14, 2025 9 to 9:20 a.m.

NATURAL RESOURCE COMMISSION[571]

Vessel safety and registration, rescind chs 36, 38 to 43, 45, adopt ch 37; special events and fireworks displays, ch 44; inspection of permanently moored vessels, ch 48; motor vehicles in meandered streams, navigable streams and trout streams, ch 49; nonpermanent structures, ch 55; shooting sports grant program, ch 56 IAB 1/8/25 **ARCs 8596C**, **8597C**, **8604C**, **8610C**, **8611C**, **8613C**	Via videoconference A meeting registration link will be provided prior to the hearing	February 11, 2025 11 a.m.
All-terrain vehicles, off-road motorcycles and off-road utility vehicles, ch 46; snowmobiles, ch 47; regulated vehicle, snowmobile and vessel bonding, ch 50; state parks, recreation areas, and state forest camping; keg beer rules, amend ch 61, rescind ch 63; metal detector use in state areas, ch 64; Saylorville multiuse trail, ch 66; recreation trails on state forests, parks, preserves and recreation areas, ch 67 IAB 1/8/25 **ARCs 8585C**, **8586C**, **8587C**, **8588C**, **8598C**, **8603C**, **8605C**	6200 Park Avenue, Suite 200 Des Moines, Iowa Also via videoconference A meeting registration link will be provided prior to the hearing	February 6, 2025 4 to 5 p.m.
Timber buyers, ch 72; forest and fruit-tree reservations, ch 73 IAB 1/8/25 **ARCs 8589C, 8622C**	Via videoconference A meeting registration link will be provided prior to the hearing	February 5, 2025 1 to 2 p.m.
State lands volunteer program, ch 13; state park and recreation area fees, ch 16 IAB 1/8/25 **ARCs 8615C**, **8649C**	Via videoconference A meeting registration link will be provided prior to the hearing	February 6, 2025 4 to 5 p.m.

NURSING BOARD

Authority, ch 1; nursing education programs, ch 2; licensure to practice—registered nurse/licensed practical nurse, ch 3; complaints, investigations and discipline, ch 4; continuing education, ch 5; nursing practice for registered nurses/licensed practice nurses, ch 6; advanced registered nurse practitioners, ch 7; Red Tape Review, rescind chs 8 to 11, 13 to 15, 17 to 20; registered nurse certifying organizations/utilization and cost control review, ch 12 IAB 1/22/25 **ARCs 8762C**, **8763C**, **8767C**, **8768C**, **8791C**, **8792C**, **8793C**, **8794C**, **8795C**	6200 Park Avenue Des Moines, Iowa Information on virtual participation will be available on the Department of Inspections, Appeals, and Licensing website prior to the hearing.	February 11, 2025 8:30 a.m. February 12, 2025 8:30 a.m.

REVENUE DEPARTMENT[701]

Administration of cigarette, tobacco, vapor products, and alternative nicotine products; cigarette tax and regulation of delivery sales of alternative nicotine products or vapor products, tobacco tax; unfair cigarette sales; tobacco master settlement agreement, marijuana and controlled substance stamp tax, adopt chs 230 to 234, 240; rescind chs 254 to 258, 269 IAB 1/22/25 **ARCs 8733C**, **8734C**, **8735C**, **8736C**, **8737C**, **8738C**	Via videoconference call meet.google.com/dfi-ijbx-deo Via videoconference call meet.google.com/mki-dfmd-ybz	February 11, 2025 1 to 2 p.m. February 12, 2025 1 to 2 p.m.
Vehicles subject to registration, ch 250; automobile rental excise tax, ch 251; state-imposed water service excise tax, ch 252; state-imposed and locally imposed hotel and motel taxes, ch 253 IAB 1/22/25 **ARCs 8727C**, **8728C**, **8729C**, **8732C**	Via videoconference call meet.google.com/iei-hezt-fuc Via videoconference call meet.google.com/tbv-dhxq-cjx	February 11, 2025 11 a.m. to 12 noon February 12, 2025 11 a.m. to 12 noon
Fuel tax administration, motor fuel and undyed special fuel, liquefied petroleum gas—compressed natural gas—liquefied natural gas—hydrogen, electric fuel excise tax, chs 259 to 262 IAB 1/22/25 **ARC 8739C**	Via videoconference call meet.google.com/ima-dbfg-ttv Via videoconference call meet.google.com/uco-aouw-qne	February 12, 2025 2 to 3 p.m. February 11, 2025 2 to 3 p.m.
General requirements, ch 1000; alcohol product management and warehousing, ch 1001; personal importation of alcoholic beverages, ch 1002; trade practices, ch 1003 IAB 2/5/25 **ARCs 8723C**, **8724C**, **8725C**, **8726C**	Via videoconference call meet.google.com/cec-wnfw-kxv Via videoconference call meet.google.com/rxw-nuwh-sdj	February 25, 2025 10 to 11 a.m. February 25, 2025 2 to 3 p.m.

SECRETARY OF STATE[721]

Precinct election officials and other election personnel training requirements, 21.362 IAB 1/22/25 **Regulatory Analysis**	Via videoconference meet.google.com/mck-qchk-fdu	February 11, 2025 10 to 11 a.m.

TRANSPORTATION DEPARTMENT[761]

Procedure for rulemaking and petitions for rulemaking, ch 10 IAB 1/22/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 448 593 965	February 13, 2025 10 to 10:30 a.m.
Waiver of rules, ch 11 IAB 1/22/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 505 838 066	February 13, 2025 11 to 11:30 a.m.

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Declaratory orders, ch 12 IAB 1/22/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 163 303 932	February 13, 2025 1:30 to 2 p.m.
Warning lights on vehicles or equipment in road work zones, ch 135 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 414 627 489	February 25, 2025 1 to 1:30 p.m.
Transporter plates, ch 424 IAB 1/22/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 612 558 981	February 14, 2025 9 to 9:30 a.m.
Vehicle recyclers, ch 431 IAB 1/22/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 488 896 949	February 14, 2025 1 to 1:30 p.m.
Special permits for operation and movement of vehicles and loads of excess size and weight, ch 511 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 151 891 122	February 28, 2025 1 to 1:30 p.m.
For-hire intrastate motor carrier authority, ch 524 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 262 987 526	February 28, 2025 9 to 9:30 a.m.
For-hire interstate motor carrier authority, ch 529 IAB 2/5/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 622 454 376	February 28, 2025 11 to 11:30 a.m.
General information, ch 600 IAB 1/22/25 **Regulatory Analysis**	Microsoft Teams link Or dial: 515.817.6093 Conference ID: 845 632 012	February 14, 2025 2 to 2:30 p.m.

UTILITIES COMMISSION[199]

Cogeneration and small power production, ch 15 IAB 1/22/25 **ARC 8797C**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	March 4, 2025 2 to 4 p.m.
	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	March 18, 2025 2 to 4 p.m.

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Service supplied by gas utilities, ch 19 IAB 1/22/25 **ARC 8796C**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	February 11, 2025 9 to 11 a.m.
	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	February 25, 2025 9 to 11 a.m.
Electric interconnection of distributed generation facilities, ch 45 IAB 1/22/25 **ARC 8798C**	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	March 6, 2025 9 to 11 a.m.
	Commission Hearing Room 1375 East Court Avenue Des Moines, Iowa Also via Zoom	March 20, 2025 9 to 11 a.m.

The following list will be updated as changes occur.

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

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

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

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Schedule for Rulemaking—2025

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Dec. 18 '24	Jan. 8	Jan. 28	Jan. 31	Feb. 19	Mar. 11	Mar. 26	Mar. 28	Apr. 16	May 21	Aug. 18
Jan. 2	Jan. 22	Feb. 11	Feb. 14	Mar. 5	Mar. 25	Apr. 9	Apr. 11	Apr. 30	June 4	Sep. 1
Jan. 17	Feb. 5	Feb. 25	Feb. 28	Mar. 19	Apr. 8	Apr. 23	Apr. 25	May 14	June 18	Sep. 15
Jan. 31	Feb. 19	Mar. 11	Mar. 14	Apr. 2	Apr. 22	May 7	**May 7**	May 28	July 2	Sep. 29
Feb. 14	Mar. 5	Mar. 25	Mar. 28	Apr. 16	May 6	May 21	May 23	June 11	July 16	Oct. 13
Feb. 28	Mar. 19	Apr. 8	Apr. 11	Apr. 30	May 20	June 4	June 6	June 25	July 30	Oct. 27
Mar. 14	Apr. 2	Apr. 22	Apr. 25	May 14	June 3	June 18	**June 18**	July 9	Aug. 13	Nov. 10
Mar. 28	Apr. 16	May 6	**May 7**	May 28	June 17	July 2	**July 2**	July 23	Aug. 27	Nov. 24
Apr. 11	Apr. 30	May 20	May 23	June 11	July 1	July 16	July 18	Aug. 6	Sep. 10	Dec. 8
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May 23	June 11	July 1	**July 2**	July 23	Aug. 12	Aug. 27	Aug. 29	Sep. 17	Oct. 22	Jan. 19 '26
June 6	June 25	July 15	July 18	Aug. 6	Aug. 26	Sep. 10	Sep. 12	Oct. 1	Nov. 5	Feb. 2 '26
June 18	July 9	July 29	Aug. 1	Aug. 20	Sep. 9	Sep. 24	Sep. 26	Oct. 15	Nov. 19	Feb. 16 '26
July 2	July 23	Aug. 12	**Aug. 13**	Sep. 3	Sep. 23	Oct. 8	Oct. 10	Oct. 29	Dec. 3	Mar. 2 '26
July 18	Aug. 6	Aug. 26	Aug. 29	Sep. 17	Oct. 7	Oct. 22	**Oct. 22**	Nov. 12	Dec. 17	Mar. 16 '26
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PLEASE NOTE:

Rules will not be accepted by the Publications Editing Office after **12 o'clock noon** on the filing deadline unless prior approval has been received from the Administrative Rules Coordinator and the Administrative Code Editor.

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

†To allow time for review by the Administrative Rules Coordinator prior to the Notice submission deadline, Notices should generally be submitted in RMS four or more business days in advance of the deadline. The first possible notice submission deadline noted above may not allow sufficient time for this. **Agencies should plan accordingly.**

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

Regulatory Analysis

Notice of Intended Action to be published: 17—Chapters 3 and 23
"Rule Rescissions Necessitated by 2024 Iowa Acts, House File 2673"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 2024 Iowa Acts, House File 2673
State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, House File 2673

Public Hearing

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

February 25, 2025 10 to 10:30 a.m.	Microsoft Teams Meeting ID: 232 231 861 969 Passcode: pR9LS7jB

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

This proposed rulemaking rescinds Chapter 3, "Commission on Aging." The Commission was eliminated by 2024 Iowa Acts, House File 2673. The proposed rulemaking also rescinds Chapter 23, "Aging and Disability Resource Center," since the makeup and functions of Aging and Disability Resource Centers were modified by section 153 of 2024 Iowa Acts, House File 2673. To coincide with the rescission of Chapter 23, an Aging and Disability Resource Centers chapter will be repromulgated as 441—Chapter 224 in a separate proposed rulemaking.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Because these are chapter rescissions, there are no costs associated with the proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

No one will benefit from or be harmed by the proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Two chapters are proposed to be rescinded from agency [17] and moved to agency [441].

- **Qualitative description of impact:**

The two chapters proposed to be rescinded from agency [17] are being repromulgated to comply with 2024 Iowa Acts, House File 2678.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no costs associated with the proposed rulemaking.

- **Anticipated effect on state revenues:**

There is no anticipated effect on state revenues from the proposed rulemaking.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rescission and repromulgation is the appropriate course of action pursuant to both 2024 Iowa Acts, House File 2673 and Senate File 514.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No alternative methods were considered by the Department.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind **17—Chapter 3**.

ITEM 2. Rescind **17—Chapter 23**.

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 25, 34, 300, 301, 302, 304, 305, and 310 "Disability Services Management; Alternative Diagnostic Facilities; Behavioral Health Definitions; Behavioral Health Service System Eligibility; Behavioral Health Administrative Service Organizations; District Behavioral Health Advisory Councils; Mental Health Advocates; Data Collection"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 225A
State or federal law(s) implemented by the rulemaking: Iowa Code chapter 225A

Public Hearing

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

February 25, 2025 3 p.m.	Microsoft Teams Meeting ID: 216 732 111 056 Passcode: Ww7oS3uS

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

This proposed rulemaking creates new chapters to implement the State's updated behavioral health service system pursuant to 2024 Iowa Acts, House File 2673. The proposed rulemaking also rescinds existing chapters that are no longer applicable to the new behavioral health service system. Finally, the proposed rulemaking makes conforming changes to some existing chapters in order to reflect the funding changes resulting from the legislation.

The new behavioral health service system will support equitable statewide access to all services offered through the behavioral health service system and offer specialized services with a focus on at-risk populations, including but not limited to children, youth, young adults, individuals with disabilities, pregnant and parenting women, older adults, and people with limited access to financial resources.

Citations in the proposed rules to Iowa Code chapter 225A and sections therein are to that chapter as enacted by 2024 Iowa Acts, House File 2673, effective July 1, 2025.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The Department expects to realize lower administrative costs and efficiencies in the new service delivery system. In addition, the Department anticipates it will discover offsets due to payment for services that should have been covered by Medicaid. During the first two fiscal years of the new

service delivery system, any overages in spending will be covered by the existing balance in the Region Incentive Fund.

- **Classes of persons that will benefit from the proposed rulemaking:**

Children, youth, young adults, individuals with disabilities, pregnant and parenting women, older adults, and people with limited access to financial resources who are seeking behavioral health prevention, early intervention, and treatment services will benefit from this rulemaking because it implements a new, equitable behavioral health service system.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

In state fiscal year 2024, approximately 46,000 Iowans with mental health conditions, substance use disorders, or disabilities were served. Going forward, the number of Iowans served under these proposed chapters will be a subset of that number due to the realignment of Iowa's existing mental health and disabilities services system prompted by 2024 Iowa Acts, House File 2673.

- **Qualitative description of impact:**

Children, youth, young adults, individuals with disabilities, pregnant and parenting women, older adults, and people with limited access to financial resources who are seeking behavioral health prevention, early intervention, and treatment services will be able to be directed to or receive services under the new behavioral health service system.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department will continue to incur personnel and other administrative costs. Additionally, the contracted Administrative Service Organizations (ASOs) will incur administrative costs.

- **Anticipated effect on state revenues:**

During the first two fiscal years of the new service delivery system, any overages in spending will be covered by the existing balance in the Region Incentive Fund. The Department does not expect to require any additional state revenues during that time period.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is the appropriate course because it is required by 2024 Iowa Acts, House File 2673.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Rulemaking is the appropriate course because it is required by 2024 Iowa Acts, House File 2673. However, all effort has been made to avoid including language that is covered in contracts, policies and procedures, and state plans.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

No other methods were considered.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Rulemaking is the appropriate course because it is required by 2024 Iowa Acts, House File 2673.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind and reserve **441—Chapter 25**.

ITEM 2. Rescind and reserve **441—Chapter 34**.

ITEM 3. Adopt the following **new** Title XVIII to precede **441—Chapter 300**:

TITLE XVIII
BEHAVIORAL HEALTH SERVICES

ITEM 4. Adopt the following **new** 441—Chapter 300:

CHAPTER 300
DEFINITIONS

441—300.1(225A) Definitions.

"Access funds" means funding provided to a behavioral health safety net provider by a behavioral health administrative services organization to support enhanced service delivery, maintain access to services, and fund other necessary expenses that fall outside of the scope and payment structures of other available funding. Access funds may include but are not limited to startup funding to establish or expand access to services; costs associated with maintaining access to services; data and continuous quality improvement activities to identify, implement, and monitor critical performance measures; and workforce development to recruit, retain, and develop highly qualified staff to provide behavioral health services.

"Advocate" means advocate as defined in Iowa Code section 229.1.

"At-risk individuals" means individuals with access limits or functional needs (temporary or permanent) that indicate enhanced risk of development or exacerbation of a behavioral health condition or interfere with their ability to access care.

"At-risk populations" means groups of children, youth, young adults, adults, or older adults at higher risk of developing a behavioral health condition, including but not limited to individuals with disabilities, pregnant and parenting women, people with limited English proficiency, individuals with limited financial resources, people without access or means to access transportation, or individuals who lack a system of social support.

"Behavioral health" means mental health and addictive disorders and is inclusive of but not limited to mental illness, substance use, problem gambling, and tobacco and nicotine dependence.

"Behavioral health administrative services organization" or *"BH-ASO"* means the lead entities designated by the department to plan, develop, coordinate, and ensure behavioral health services throughout a district in accordance with the statewide behavioral health service system plan.

"Behavioral health care" means an integrated, recovery-oriented approach to care that acknowledges co-occurring conditions are the expectation, not the exception, and contemplates the full continuum of behavioral health prevention, education, early intervention, assessment, diagnosis, treatment, recovery, and crisis services and supports.

"Behavioral health condition" means the same as defined in Iowa Code section 225A.1.

"Behavioral health safety net service providers" or *"safety net providers"* means agencies that are primarily publicly funded; provide behavioral health services and supports with a focus on uninsured and underinsured individuals, at-risk populations and individuals, or special or targeted populations; coordinate care for individuals served; and meet minimum access standards. Behavioral health safety net service providers may receive access funds, training, tools and technical assistance to provide a level of accessibility beyond that of other behavioral health providers.

"Behavioral health services" means services under any of the following domains on the behavioral health service continuum: prevention, early intervention, treatment, recovery, crisis services, and recovery supports.

"Behavioral health service system" means the same as defined in Iowa Code section 225A.1.

"Conflict of interest" means any activity that interferes or gives the appearance of interference with the exercise of professional discretion and impartial judgment.

"County of residence" means the same as defined in Iowa Code section 331.190.

"County of venue" means the county in which the Iowa Code chapter 229 commitment was filed pursuant to Iowa Code section 229.44.

"County where the individual is located" means the individual's county of residence as defined in Iowa Code section 331.190, or, if the individual has been ordered to receive treatment services under an Iowa Code chapter 229 commitment and is placed in a residential or other treatment facility, the county in which the residential or other treatment facility is located.

"Crisis navigation" means activities to ensure that an individual in crisis is able to access appropriate crisis services in a timely manner and to transition an individual from crisis services to postcrisis care. This includes but is not limited to bed finding, coordination of transportation, system navigation, coordination of warm handoffs, and securing placements appropriate to meet individual needs.

"Crisis services" means community-based services that focus on the immediate de-escalation and relief of the distress associated with a behavioral health crisis, reduce the risk that an individual in a crisis harms themselves or others, and provide aftercare and connection to ongoing follow-up to ensure postcrisis stabilization and reduce the reliance on high-acuity care or more restrictive environments.

"District" means a substate geographic area determined by the department to define the geographic boundaries of the behavioral health service system.

"District behavioral health service system plan" or *"district plan"* means a plan developed by the district BH-ASO and approved by the department to ensure access to behavioral health care and behavioral health services throughout a district.

"District contract" means a contract between the department and a BH-ASO. These contracts shall meet all applicable requirements of state and federal law.

"Early intervention" means intervention, service, or support provided to at-risk individuals to ameliorate or relieve early presenting symptoms prior to the development of a behavioral health condition or disorder.

"Education" means disseminating behavioral health knowledge or building resiliency skills through structured learning processes, including support of critical life and social skills such as decision-making, peer resistance and refusal, coping with stress, problem-solving, interpersonal communication, and improving judgment capabilities.

"Indicated prevention" means the same as defined in Iowa Code section 225A.1.

"Judicial district" means the same as described in Iowa Code section 602.6107.

"Minimum access standards" means standards to ensure equitable access to behavioral health services provided through the behavioral health service system, including but not limited to when and where services are made available, service and funding eligibility criteria, and behavioral health safety net service provider requirements.

"Prevention" means information dissemination; prevention education; alternative activities; wellness promotion; organizing, planning, and enhancing community-based processes; developing environmental approaches; and problem identification and referral designed to prevent the onset, reduce the impact, and mitigate the effects of a behavioral health condition.

"Primary substance use prevention" or *"universal prevention"* mean activities designed to address the total population for the purpose of preventing exposures to hazards that cause disease or injury; altering unhealthy or unsafe behaviors that can lead to disease, disorder, or injury; and increasing resistance to disease, disorder, or injury should exposure occur.

"Provider contract" means a contract between a BH-ASO and a provider of behavioral health services. These contracts shall meet all applicable requirements of state and federal law.

"Recovery supports" means nonclinical assistance that facilitates recovery, wellness, and connection between individuals in recovery, service providers, and other supports known to enhance people's quality of life, including system navigation, peer recovery coaching, and peer support.

"Selective prevention" means the same as defined in Iowa Code section 225A.1.

"Special populations," for the purposes of the substance use prevention, treatment, and recovery services block grant (SUPTRS BG), means pregnant women, women with dependent children, individuals who use drugs through intravenous injection, and individuals who use substances and have tuberculosis.

"State behavioral health service system plan" or *"state behavioral health plan"* means the same as defined in Iowa Code section 225A.1.

"System navigation" means in-person, online and telephonic support for problem-solving and navigation of the services and supports available. System navigators ensure individuals and families who encounter barriers in accessing services and support are able to navigate health care, social services, and legal systems.

"Treatment" means clinical inpatient, outpatient, and residential care for individuals with a behavioral health condition or disorder diagnosed utilizing the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA) (published 2013, with all changes and updates approved by the APA through July 1, 2025, incorporated herein). The type, length, and intensity/frequency of interventions used by a behavioral health provider are based on the presenting symptoms of the individual.

"Underinsured" means an individual who has insurance coverage, but coverage limitations render reimbursement for behavioral health services ordered by a behavioral health service provider unavailable. Underinsured does not mean insurance coverage that has denied authorization of a service, denied payment of a covered service, or recouped a claim paid.

"Uninsured" means an individual who does not have insurance or whose insurance coverage is terminated for short periods of time.

This rule is intended to implement Iowa Code chapters 225A and 229.

ITEM 5. Adopt the following **new** 441—Chapter 301:

CHAPTER 301
BEHAVIORAL HEALTH SERVICE SYSTEM ELIGIBILITY AND SERVICES

441—301.1(225A) Individual eligibility for behavioral health service system funding. To be eligible for behavioral health service system funding, an individual must meet the following financial and needs-based eligibility criteria.

301.1(1) *Financial eligibility.* Income requirements for adults and household income for children are as follows:

a. Income equal to or less than 200 percent of the federal poverty level.

b. Income will be verified using the best information available.

c. Financial eligibility will be reviewed on an annual basis and may be reviewed more often in response to increases or decreases in income.

d. An individual who is eligible for medical assistance must apply for and exhaust such funding for services and supports prior to utilization of behavioral health service system funding.

301.1(2) *Resource requirements.* Individuals seeking behavioral services must have resources that are equal to or less than $2,000 in countable value for a single-person household or $3,000 in countable value for a multiperson household.

a. The countable value of all countable resources, both liquid and nonliquid, will be included in the eligibility determination, except as exempted in this subrule.

b. A transfer of property or other assets within five years of the time of application with the result of, or intent to, qualify for assistance may result in denial or discontinuation of funding.

c. The following resources will be exempt:

(1) A homestead, including equity in a family home or farm that is used as the individual household's principal place of residence. The homestead will include all land that is contiguous to the home and the buildings located on the land.

(2) One automobile used for transportation.

(3) Tools of an actively pursued trade.

(4) General household furnishings and personal items.

(5) Burial account or trust limited in value as to that allowed in the medical assistance program.

(6) Cash surrender value of life insurance with a face value of less than $1,500 on any one person.

(7) Any resource determined excludable by the Social Security Administration as a result of an approved Social Security Administration work incentive.

d. If an individual does not qualify for federally funded or state-funded services or other support but meets all income, resource, and functional eligibility requirements of this chapter, the following types of resources will additionally be considered exempt from consideration in eligibility determination:

(1) A retirement account that is in the accumulation stage.

(2) A medical savings account.

(3) An assistive technology account.

(4) A burial account or trust limited in value as to that allowed in the medical assistance program.

301.1(3) *Needs-based eligibility.* An individual must:

a. Be a resident of Iowa, or if a minor, the custodial parent is a resident of Iowa.

b. At any time during the preceding 12-month period have had a behavioral health condition.

301.1(4) *Service-specific eligibility.* Individuals meeting financial and needs-based eligibility requirements may be subject to additional diagnostic, level of care, or admission requirements for services. Individuals receiving:

a. Twenty-three-hour observation and holding services must meet admission criteria set forth in 441—subrule 24.37(1).

b. Crisis stabilization community-based services must meet service eligibility requirements set forth in 441—subrule 24.38(1).

c. Crisis stabilization residential services must meet service eligibility requirements set forth in 441—subrule 24.39(1).

d. Substance use disorder treatment services must meet the following levels of the third edition of the American Society of Addiction Medicine (ASAM) Criteria as published by the American Society of Addiction Medicine and as amended to July 1, 2025:

(1) Level 1.0 for outpatient treatment services.

(2) Level 2.1 for intensive outpatient treatment services.

(3) Level 2.5 for partial hospitalization services.

(4) Level 3.1 for clinically managed, low-intensity residential services.

(5) Level 3.3 for clinically managed, medium-intensity residential services.

(6) Level 3.5 for clinically managed, high-intensity residential services.

(7) Level 3.7 for medically monitored inpatient services.

e. Assertive community treatment (ACT) services must meet service eligibility requirements set forth in 441—subrule 78.45(1).

f. Subacute services must meet admission requirements set forth in 481—subrule 71.13(2).

g. Outpatient competency restoration must have a court order to receive the service pursuant to Iowa Code section 812.6.

h. Psychiatric medical institutions for children (PMIC) services must meet certification of need requirements set forth in rule 481—41.9(135H).

301.1(5) *Exceptions.* Receipt of the following behavioral health services is as defined and is not subject to individual eligibility criteria in subrule 301.1(1), 301.1(2) or 301.1(3):

a. Prevention.

b. Early intervention services.

c. Crisis services.

d. Outpatient competency restoration.

e. Jail-based behavioral health services.

f. System navigation.

441—301.2(225A) The behavioral health care continuum.

301.2(1) *Behavioral health services.* Behavioral health services overseen by a BH-ASO will include ensuring access to the full continuum of behavioral health care, including:

a. Prevention services, including indicated prevention, primary substance use prevention and universal prevention, and selective prevention.

b. Early identification.

c. Early intervention services.

d. Crisis services, including immediate access to crisis assessment and evaluation; access centers; sobering centers; mobile crisis response; crisis-stabilization, community-based services; and crisis-stabilization, residential services.

e. Mental health outpatient treatment services, including screening, assessment, diagnosis, risk assessment, and crisis planning.

f. Mental health, high-intensity outpatient treatment services, including ACT, intensive outpatient programs (IOP), intensive psychiatric rehabilitation (IPR), partial hospitalization, and day treatment.

g. PMIC.

h. Mental health inpatient treatment.

i. Hospital alternatives, including subacute services, 23-hour observation and holding, and crisis respite services.

j. Substance use disorder outpatient treatment services, including assessment and evaluation services.

k. Substance use disorder intensive outpatient treatment services.

l. Substance use disorder partial hospitalization services.

m. Substance use disorder clinically managed residential treatment services.

n. Substance use disorder medically monitored inpatient services.

o. Recovery supports.

p. Peer support and peer recovery coaching.

q. Peer wellness and recovery community centers.

r. Transitional living and recovery housing programs.

s. Jail-based behavioral health services, including provision of behavioral health treatment and medications in jails.

t. Commitment-related services, including prescreening, secure transportation, legal representation, and mental health advocates.

u. Outpatient competency restoration.

v. Outreach, education, and engagement services.

w. Additional services deemed necessary for a district or statewide as determined by the district behavioral health service system plan and approved by the department.

301.2(2) *Additional requirements.* Additional requirements related to behavioral health services include crisis system navigation that must be available 24 hours per day, 7 days per week, 365 days per year.

301.2(3) *Option for waiting lists.* The department will maintain a waiting list of individuals denied access to the program due to lack of available funds. Waiting list information will include the date on which the individual was placed on the waiting list. If additional funds become available, the department will contact individuals on the list.

441—301.3(225A) Provider qualifications.

301.3(1) *Behavioral health safety net service providers.* Behavioral health safety net service providers, which are defined in rule 441—300.1(225A), are required to:

a. Adhere to minimum access standards as set forth in 441—subrule 302.2(1).

b. Accept behavioral health service system funds as payment in full for individuals served through behavioral health service system funding. The safety net provider may not bill individuals for missed appointments, or for copayments or other cost-sharing arrangements, except as described in individual eligibility standards in rule 441—301.1(225A).

c. Work with BH-ASOs to coordinate care for the individuals the safety net provider serves, including making referrals to secure services and supports appropriate for the individual, coordinating warm handoffs to ensure continuity of care, coordinating transportation, and performing post-discharge follow-up.

d. Notify the BH-ASO within seven days when a safety net provider is at or above 90 percent capacity to admit individuals in need of behavioral health services.

301.3(2) *Behavioral health service system provider eligibility.* The following persons or organizations are eligible to participate as behavioral health service system providers to the extent allowed under the scope of their licensure, certification, or accreditation:

a. Hospitals providing inpatient psychiatric treatment or emergency department services licensed pursuant to Iowa Code chapter 135B.

b. Providers of outpatient mental health services licensed to practice in the state of Iowa or accredited under 441—Chapter 24.

c. Providers of crisis services accredited under 441—Chapter 24.

d. Community mental health centers (CMHCs) accredited under 441—Chapter 24.

e. Certified community behavioral health clinics (CCBHCs) certified by the department.

f. Federally qualified health centers (FQHCs) certified by the Centers for Medicare and Medicaid Services (CMS).

g. Providers of substance use disorder treatment and problem gambling treatment licensed pursuant to 641—Chapter 155.

h. Local tobacco control programs designated by the department.

i. Recovery community centers (RCCs) designated by the department.

j. Providers of recovery support services (RSSs) designated by the department.

k. Subacute mental health facilities licensed pursuant to 481—Chapter 71.

l. PMICs licensed pursuant to 481—Chapter 41.

m. Providers of prevention services designated by the department.

n. Providers of early intervention services designated by the department.

o. Recovery and peer support providers trained or certified through approved programs designated by the department.

441—301.4(225A) Appeal rights. The department will issue a notice of adverse action in accordance with 441—Chapter 16. The right to appeal will be given by the department in accordance with 441—Chapter 7.

These rules are intended to implement Iowa Code chapter 225A.

ITEM 6. Adopt the following **new** 441—Chapter 302:

CHAPTER 302
BEHAVIORAL HEALTH ADMINISTRATIVE SERVICE ORGANIZATIONS

441—302.1(225A) Implementation and maintenance of programs and services.

302.1(1) *Authority to designate BH-ASOs.* The department will designate one BH-ASO for each district as set forth in Iowa Code chapter 225A. The department will enter into a contract with a designated BH-ASO to coordinate and oversee behavioral health services in one or more behavioral health district. If the department terminates its contract with a BH-ASO for any reason, the entity is no longer designated by the department as a BH-ASO.

302.1(2) *Community needs assessment.* A BH-ASO will complete an assessment of community needs to identify behavioral health service system strengths, gaps, and emerging issues within its district.

302.1(3) *District behavioral health service system plan.* A BH-ASO will collaborate with the district behavioral health advisory council and other stakeholders to develop a district behavioral health service system plan to describe all behavioral health services and supports and other activities in support of the behavioral health system to be delivered by the BH-ASO.

302.1(4) *BH-ASO operations.* A BH-ASO will implement its approved district plan and maintain operations necessary to meet its obligations under state and federal laws and regulations and as established in the district contract.

441—302.2(225A) Service availability and accessibility.

302.2(1) *Minimum access standards.* A BH-ASO will ensure available, accessible, and adequate numbers of providers, locations, and personnel for the provision of behavioral health services. At a minimum, access to services provided by behavioral health safety net service providers will meet the following standards:

a. Crisis assessment and evaluation. An individual will have immediate access to a crisis screening and will have a crisis assessment by an appropriately licensed or credentialed mental health or substance use disorder treatment professional within 24 hours of referral.

b. Access centers. An individual will have access to services within 60 minutes or 60 miles of an individual's residence.

c. Mobile crisis response. An individual will have an in-person, community-based response within 60 minutes.

d. Crisis-stabilization, community-based services. An individual will have access to services within the time frames set forth in 441—Chapter 24.

e. Crisis-stabilization, residential services. An individual will have access to services within the time frames set forth in 441—Chapter 24.

f. Mental health outpatient.

(1) The service will be located within 60 minutes or 60 miles of an individual's residence.

(2) During an emergency, outpatient services shall be initiated to an individual within 15 minutes of telephone contact. When the assessed need is urgent, outpatient services shall be provided to an individual within one hour of presentation or 24 hours of telephone contact. When the assessed need is for routine care, outpatient services shall be provided to an individual within four weeks of the individual's request for appointment.

g. Assertive community treatment. The service will be available to all individuals within a district.

h. Mental health intensive psychiatric rehabilitation. An individual will have access to services within the time frames set forth in 441—Chapter 24.

i. Mental health inpatient. The service will be located within 60 minutes or 60 miles of an individual's residence in urban areas and within 90 minutes or 90 miles of an individual's residence in rural areas.

j. Substance use disorder outpatient treatment. An individual will have access to services within 60 minutes or 60 miles of the individual's residence.

k. Substance use disorder intensive outpatient services. An individual will have access to services within 60 minutes or 60 miles of an individual's residence.

l. Substance use disorder residential treatment services. An individual will have access to services within 60 minutes or 60 miles of an individual's residence.

m. Substance use disorder inpatient services. The service will be located within 60 minutes or 60 miles of an individual's residence in urban areas and within 90 minutes or 90 miles of an individual's residence in rural areas.

n. Outpatient competency restoration. The service will be available to all individuals within a district.

o. Twenty-three-hour observation and holding. An individual will have access to services within the time frames set forth in 441—Chapter 24.

p. Crisis respite. An individual will have access to services within the time frames set forth in 441—Chapter 24.

302.2(2) *Priority populations for substance use disorder treatment.* In addition to the standards in subrule 302.2(1), behavioral health safety net service providers of substance use disorder treatment will meet the following standards:

a. In accordance with 45 CFR Part 96, Subpart L, as amended to July 1, 2025, priority admission to substance use disorder treatment services must be offered to the following populations, in this order:

(1) Individuals who are pregnant and who use injection drugs.

(2) Individuals who are pregnant.

(3) Individuals who use injection drugs.

(4) All others.

b. Individuals who are pregnant must be admitted to the recommended ASAM level of care within 48 hours of receiving the recommendation for treatment from a licensed substance use disorder treatment provider. If admission is not possible within 48 hours, the individual must be offered interim services as defined in 45 CFR 96.121 as amended to July 1, 2025, and must be referred to the statewide waitlist maintained by the department.

c. Individuals who report the use of injection drugs and are not pregnant must be admitted to the recommended ASAM level of care within 14 days of receiving the recommendation for treatment from a licensed substance use disorder treatment provider. If admission is not possible within 14 days, interim services must be offered within 48 hours and the admission deadline is then extended to 120 days.

302.2(3) *Free choice of providers.* A BH-ASO will ensure that individuals may receive services from any qualified network provider that is available to provide the services to them.

441—302.3(225A) Provider oversight and monitoring.

302.3(1) *Provider contracts.* To receive payment for services through a BH-ASO, providers of behavioral health services must have a provider contract with the BH-ASO. Providers that are eligible to enroll with the Iowa Medicaid program must also be enrolled as an Iowa Medicaid provider.

302.3(2) *Claim submission.* Providers of behavioral health services will submit claims for services on at least a monthly basis.

a. Claims for services rendered for persons eligible for Medicaid will be submitted to the managed care organization that the person is enrolled with in accordance with the managed care organization's claim submission policies.

b. Claims for services rendered for persons not eligible for Medicaid will be submitted to the Iowa Medicaid program according to the process set by the department for BH-ASO claims and will meet the following requirements:

(1) Claims will be submitted electronically on the proper claim forms following the requirements set forth in rule 441—80.2(249A).

(2) Claims will follow the time limits for claim submission set forth in rule 441—80.4(249A).

302.3(3) *Provider monitoring.* A BH-ASO will conduct monitoring activities to oversee providers of behavioral health services within the district and monitor the Iowa Medicaid provider sanction list and take the following actions:

a. For any behavioral health provider suspended by Medicaid, suspend participation in the BH-ASO provider network within 30 days.

b. For any behavioral health provider terminated by Medicaid, terminate participation in the BH-ASO provider network within 30 days.

These rules are intended to implement Iowa Code chapter 225A.

ITEM 7. Adopt the following **new** 441—Chapter 304:

CHAPTER 304
DISTRICT BEHAVIORAL HEALTH ADVISORY COUNCILS

441—304.1(225A) Definitions. For the purpose of this chapter, the following definitions apply:

"Chairperson" means the chairperson of the district behavioral health advisory council who has been elected by a majority of advisory council members.

"District behavioral health advisory council" or *"advisory council"* means the same as defined in Iowa Code section 225A.1.

441—304.2(225A) Appointment.

304.2(1) The members of the advisory council will be appointed by the BH-ASO in accordance with the parameters of Iowa Code section 225A.5.

304.2(2) The appointments will be for three-year staggered terms that expire on June 30.

304.2(3) Vacancies will be filled in accordance with requirements established in the district contract. Members appointed to fill a vacancy will serve for the balance of the unexpired term.

304.2(4) Absences.

a. Three unexcused absences in a 12-month period constitutes grounds for the BH-ASO to request nomination of an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson of the advisory council is charged with providing notification of absences to the BH-ASO.

441—304.3(225A) Officers.

304.3(1) Officers of the advisory council will consist of a chairperson and a vice chairperson, who will be elected at the first meeting of each fiscal year.

a. An officer may serve no more than three consecutive terms as chairperson or vice chairperson.

b. A vacancy in the office of chairperson will be filled by elevation of the vice chairperson.

c. A vacancy in the office of vice chairperson will be filled by election at the next meeting after the vacancy occurs.

d. A vacancy must be filled by an individual meeting the same qualifications as the departing advisory council member in accordance with Iowa Code section 225A.5.

304.3(2) Duties of officers.

a. The chairperson will:

(1) Preside at all meetings of the advisory council;

(2) Appoint subcommittees as deemed necessary; and

(3) Designate the chairperson of each subcommittee.

b. The vice chairperson will:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson will have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform other duties as may be assigned by the chairperson.

441—304.4(225A) Meetings.

304.4(1) The advisory council will establish a meeting schedule on an annual basis to conduct its business. There will be a minimum of four meetings per year.

304.4(2) Meetings will be conducted pursuant to Iowa Code chapter 21.

304.4(3) A majority of appointed members constitutes a quorum.

304.4(4) When a quorum is present, a position is carried by affirmative vote of the majority of those present. No official business that requires a vote of the membership will be conducted without a quorum present.

441—304.5(225A) Subcommittees. The advisory council may designate one or more subcommittees to perform such duties as may be deemed necessary.

441—304.6(225A) Advisory council composition. The advisory council's composition will be developed and maintained pursuant to Iowa Code chapter 225A.

These rules are intended to implement Iowa Code section 225A.5.

ITEM 8. Adopt the following **new** 441—Chapter 305:

CHAPTER 305
MENTAL HEALTH ADVOCATES

441—305.1(229) Advocate appointment and qualifications. The board of supervisors of each county will appoint a person to act as an advocate representing the interests of individuals involuntarily hospitalized by the court under Iowa Code chapter 229. The advocate is hired by the board of supervisors and employed by the county.

305.1(1) *Appointment.* A person may be appointed and employed or contracted with as the advocate by one county or by multiple counties. Advocates may be appointed for counties in more than one judicial district or more than one district.

305.1(2) *Qualifications.* The advocate will meet the following qualifications:

a. Possess a bachelor's degree with 30 semester hours or equivalent quarter hours in a human services field, including but not limited to psychology, social work, mental health counseling, marriage and family therapy, nursing, education, occupational therapy, and recreational therapy, and at least one year of experience in the delivery of services to persons with mental illness; or

b. Hold an Iowa license to practice as a registered nurse and have at least three years of experience in delivery of services to persons with mental illness.

c. A person employed as an advocate on or before July 1, 2015, who does not meet the requirements of paragraph 305.1(2)*"a"* or *"b"* will be considered to meet those requirements so long as the person is continuously appointed as an advocate in the employing county.

d. A person employed as an advocate must pass criminal background, sex offender registry, and child and dependent adult abuse registry checks prior to the advocate's hire.

441—305.2(229) Advocate assignment. The committing court will assign the advocate from the county where the individual is located.

305.2(1) If the advocate assigned cannot serve the individual in an effective and efficient manner, the advocate may request another advocate to perform advocate duties on the individual's behalf. In the event that another advocate can better represent the individual on a longer-term basis, the advocate will request that the court transfer the individual to another advocate.

305.2(2) When a conflict of interest is identified between an advocate and an individual, the court and the advocate's county of employment will be notified and an alternative advocate will be assigned. The advocate's direct supervisor is responsible to monitor and ensure that the advocate does not have a conflict of interest. In instances when dual or multiple relationships are unavoidable, advocates should take steps to protect individuals and are responsible for setting clear, appropriate, and culturally sensitive boundaries. Advocates who anticipate a conflict of interest among the individuals receiving services should clarify the advocate's role with the parties involved and take appropriate action to minimize any conflict of interest.

305.2(3) When the advocate assigned is not the advocate from the individual's county of residence, the advocate's county of employment may seek reimbursement from the BH-ASO for the district in which the individual's county of residence is located as outlined in Iowa Code section 229.19(1)*"b."*

305.2(4) An advocate will only be assigned to a child 17 years of age or under when the child is not represented by an attorney due to an existing child in need of assistance (CINA) or other juvenile court action pursuant to the Iowa Code.

441—305.3(229) Advocate responsibilities. The minimum duties of the advocate are outlined in Iowa Code section 229.19. The role of the advocate is to ensure that the rights of the individual are upheld.

305.3(1) The advocate will be readily accessible to communication from the individual and will initiate contact within five days of the individual's commitment. The advocate will inform the individual regarding the role of the advocate.

305.3(2) The advocate will meet the individual in person within 15 days of the individual's commitment. The advocate will present the county grievance procedure process, in writing, to the individual. The presentation will include the county grievance procedure, county contact information and ombudsman contact information. The advocate will inform the individual about the mental health crisis services that are available.

305.3(3) The advocate will review each report submitted to the court and communicate with the individual's medical and treatment team. Advocates will abide by all federal, state, and local confidentiality laws.

305.3(4) The advocate will file in a form prescribed by the court as the advocate feels necessary or as required for each individual assigned to the advocate.

305.3(5) The advocate will maintain an organized, confidential, and secure file for each individual served. The file will contain but not be limited to:

a. Copies of quarterly reports submitted to the court.

b. Copies of correspondence sent to and received from the individual, family members, providers and others.

c. Releases of information.

d. Case notes describing the date, time, and type of contact with the individuals or others and a brief narrative summary of the content or outcome of the contact.

e. Documents filed with the court electronically will be considered as part of the individual's file.

305.3(6) The advocate will register as provided in Iowa R. Elec. P. 16.305(1) to participate in the court's electronic document management system and will submit all documents to be filed with the court electronically. The documents will be stored as electronic records that are retrievable and readable through the electronic document management system.

305.3(7) The advocate, as an employee of the county, will comply with all county policies and procedures, including but not limited to hiring, supervision, grievance procedures, and training.

305.3(8) All advocate records are the property of the county, which is responsible for the provision of confidential storage, transfer, and destruction of client files, including those maintained on electronic and digital devices, with access limited according to the county's policy on confidentiality as described in subrule 305.4(6).

305.3(9) The advocate may attend the hospitalization hearing of an individual represented by an attorney; however, payment for the advocate's attendance is at the discretion of the county of employment.

441—305.4(229) County responsibilities. As the employer of the advocate, the county will provide qualified staff to support and facilitate the provision of quality advocate services. The county will:

305.4(1) Assign a single supervisor, a single contract manager, or the county board of supervisors as the supervising entity to carry out responsibilities in this chapter.

305.4(2) Have a job description in the personnel file of the advocate that clearly defines the advocate's responsibilities and qualifications as defined in Iowa Code section 229.19 and this chapter.

305.4(3) Have a process to verify, prior to the advocate's hire, qualification of the advocate, including degrees and certifications obtained from a primary source.

305.4(4) Provide or arrange for training and education relevant to the position, including but not limited to overview of mental health diagnosis and treatment, the behavioral health service system, confidentiality, individual rights, professional conduct, the role of advocacy and service coordination within an interdisciplinary team, the Iowa Code and administrative rules, and court procedures.

305.4(5) Provide or arrange for approved training on child and dependent adult abuse reporter requirements.

305.4(6) Provide, to any employee with access to individuals' files, training on state and federal laws regarding nondisclosure and confidentiality of client-protected health information during and after employment and maintain in the personnel files a signed document indicating the employee's awareness of the county's policy on confidentiality.

305.4(7) Complete criminal background, sex offender registry and child and dependent adult abuse registry checks before employment of the advocate. Any person who does not pass these checks is prohibited from being hired, or continuing to serve, as an advocate.

305.4(8) Provide advocate staff to cover the county's caseload at all times, according to but not limited to each county's unique number of individuals assigned to the advocate, travel required, types of settings where the individuals reside, services available and extended staff absences.

441—305.5(229) Data collection requirements.

305.5(1) *Annual submission.* By December 1 of each year, each county will submit to the department data regarding each individual who received advocate services during the previous state fiscal year.

305.5(2) *Required data.* The data to be submitted are as follows:

a. Basic information about the individual, including a unique identifier and county of residence.

b. Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA) (published 2013, with all changes and updates approved by the APA through July 1, 2025, incorporated herein).

c. Commitment information, including the date of the individual's initial commitment, type of commitment order, whether a juvenile or adult case, date of commitment and name of treatment facility the individual is committed to, any subsequent changes in treatment facility, and date commitment is terminated.

441—305.6(229) Quality assurance system. The county will implement a quality assurance system that:

305.6(1) Annually measures and assesses advocates' activities and services.

305.6(2) Gathers feedback from stakeholders, including individuals using advocate services, family members, court staff, service provider staff, and regional staff regarding advocate services.

305.6(3) Implements an internal review of individual records.

305.6(4) Identifies areas in need of improvement.

305.6(5) Develops a plan to address the areas in need of improvement.

305.6(6) Implements the plan and documents the results.

These rules are intended to implement Iowa Code chapter 229.

ITEM 9. Adopt the following **new** 441—Chapter 310:

CHAPTER 310
DATA COLLECTION

441—310.1(225A) Authority. The director is the principal officer of the state to administer BH-ASO data reporting. On behalf of the department, each BH-ASO will collect and maintain data on all clients served.

310.1(1) *Submission of data.* Each BH-ASO will submit to the department the data regarding each individual that the BH-ASO serves.

a. BH-ASOs will submit data according to the frequency, file layouts, format, and naming conventions prescribed by the department.

b. When a BH-ASO is notified by the department that the data is incomplete or is not compliant with the prescribed file layouts, format, or naming conventions, the BH-ASO must correct the issue within 30 days of the notification.

c. The state supplementary assistance program, mental health institutes, state resource center, Medicaid program, Medicaid managed care organizations, and targeted case management program will provide to the department team responsible for BH-ASO evaluation and oversight the equivalent data in a compatible format on the same schedule as the required submission from the BH-ASOs as requested.

310.1(2) *Data required.* The data to be submitted are as follows:

a. Individual client-level information, including a unique identifier, name, address, demographic information, service delivery information, referral information, and any other information as prescribed by the department.

b. The state ID number when applicable.

c. Demographic information, including but not limited to date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veterans' status, guardianship status, legal status in the system, source of referral, and diagnosis code in the current version of the International Classification of Diseases (ICD) as amended to July 1, 2025.

d. Service information, including but not limited to the decision on services, date of decision, termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

This rule is intended to implement Iowa Code sections 225A.3 and 225A.6.

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 28, 29, and 30
"Policies for Mental Health Institutes and Resource Centers; Mental Health Institutes; State Resource Center"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 217, 218 and 222; 2024 Iowa Acts, House File 2673; and Executive Order 10

State or federal law(s) implemented by the rulemaking: 2024 Iowa Acts, House File 2673, and Executive Order 10

Public Hearing

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

February 25, 2025 9:30 a.m.	Microsoft Teams Meeting ID: 235 677 637 435 Passcode: Nv7Ti9Jq

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@iowa.gov

Purpose and Summary

This rulemaking proposes to rescind Chapters 28, 29, and 30 and adopt revised versions to make conforming changes in response to 2024 Iowa Acts, House File 2673, which created the State's new behavioral health services system. Concurrently, a Red Tape Review of the chapters was undertaken pursuant to Executive Order 10. A citations in the proposed rules to Iowa Code section 225A.1 refers to that section as enacted by 2024 Iowa Acts, House File 2673, effective July 1, 2025.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs associated with this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Individuals seeking or receiving services from a mental health institute or the Woodward Resource Center and their families will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

No costs are incurred as a result of this proposed rulemaking.

- **Qualitative description of impact:**

The proposed rulemaking brings Chapters 28, 29, and 30 into conformance with 2024 Iowa Acts, House File 2673.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department incurs personnel costs and other administrative costs to administer this proposed rulemaking.

- **Anticipated effect on state revenues:**

This proposed rulemaking has no impact on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is appropriate since it is needed to conform to changes made by 2024 Iowa Acts, House File 2673.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Not applicable.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 441—Chapter 28 and adopt the following **new** chapter in lieu thereof:

CHAPTER 28
POLICIES FOR MENTAL HEALTH
INSTITUTES AND RESOURCE CENTERS

441—28.1(218) Definitions. The definitions in this rule apply to 441—Chapters 28, 29, and 30.

"Admission" means the acceptance of an individual for receipt of services at a state mental health institute or the Woodward state resource center on either a voluntary or involuntary basis.

"Adult" means an individual who is 18 years of age or older.

"Facility" means a mental health institute or the Woodward state resource center referenced in Iowa Code section 218.1.

"Grievance" means a written or oral complaint by or on behalf of an individual involving:

1. A rights violation or unfairness to the individual, or
2. Any aspect of the individual's life with which the individual does not agree.

"Guardian" means the person other than a parent of a minor who has been appointed by the court to have custody of the person of the individual as provided under Iowa Code section 232.2(24) or 633.3(20).

"Individual" means any person seeking or receiving services from a state mental health institute or the Woodward state resource center.

"Informed consent" means an agreement by an individual or by the individual's parent, guardian, or legal representative to participate in an activity based upon an understanding of all of the following:

1. A full explanation of the procedures to be followed, including an identification of those that are experimental.
2. A description of the discomforts and risks.
3. A description of the benefits to be expected.
4. A disclosure of appropriate alternative procedures that would be advantageous for the individual.
5. Assurance that consent is given freely and voluntarily without fear of retribution or withdrawal of services.

"Legal representative" means a person, including an attorney, who is authorized by law to act on behalf of an individual.

"Minor" means an individual under the age of 18.

"Non-Medicaid payment-eligible" means that an individual is not eligible for Medicaid funding for the services provided by a mental health institute or the Woodward resource center.

"Parent" means a natural or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

"Rights" means the human, civil, and constitutional liberties an individual possesses through federal and state constitutions and laws.

"Superintendent" means the superintendent of either of the two mental health institutes or the Woodward state resource center.

This rule is intended to implement Iowa Code section 218.4.

441—28.2(222,230) Payor of last resort. The department will review a non-Medicaid payment-eligible individual's financial and third-party coverage information to ensure the state is the payor of last resort. Third-party coverage does not include payment by an administrative services organization as defined in Iowa Code section 225A.1.

This rule is intended to implement Iowa Code sections 222.35 and 230.23.

441—28.3(229) Grievances. Any individual who believes the individual's rights have been violated by a mental health institute or resource center or who has any complaint concerning the individual's treatment at a mental health institute or resource center may file a grievance. A grievance will be filed using the individual grievance form. The individual's parent, family, guardian, or legal representative may file a grievance on behalf of the individual.

This rule is intended to implement Iowa Code section 229.23.

441—28.4(217,218) Photographing and recording of individuals and use of cameras.

28.4(1) Use of still or video cameras or voice recorders by anyone other than an authorized employee, individual, parent, guardian, or legal representative to photograph or record an individual will be allowed only with the prior authorization of the superintendent or the superintendent's

designee. Permission to photograph and record will be granted for one specific use, and the authorization will not extend to any other use.

28.4(2) Photographs, videos, and recordings of an adult individual will be taken for publication only with a signed informed consent from the individual or the individual's guardian or legal representative.

28.4(3) Photographs, videos, and recordings of a minor individual will be taken for publication only with a signed informed consent from the parent, guardian, or legal representative.

28.4(4) Every effort will be made to preserve the inherent dignity of the individual and to preclude exploitation or embarrassment of the individual or the family of the individual.

28.4(5) Photographs, videos, and recordings of individuals are not to be altered to prevent identification in any manner that would tend to perpetuate the stigma attached to the public image of individuals with mental illness or an intellectual disability.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.5(217,218) Interviews and statements.

28.5(1) Releases to the news media will be the responsibility of the superintendent. Authority for dissemination and release of information may be designated to other employees at the discretion of the superintendent.

28.5(2) Interviews of individuals by the news media or other outside persons or groups will be permitted only with the consent of the individual or the individual's parent, guardian, or legal representative.

a. When a request without known prior consent is received, the superintendent or designee will not acknowledge the presence or nonpresence of an individual at the facility.

b. If the individual is in the facility, the superintendent or designee will make the individual or the individual's parent, guardian, or legal representative aware of the request. Notice to the individual or the individual's parent, guardian, or legal representative will be documented in the individual's record. The individual or the individual's parent, guardian, or legal representative will be free to decide whether an interview is granted.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—28.6(218) Use of grounds, facilities, or equipment.

28.6(1) The superintendent or designee may grant permission for temporary use of assembly halls, auditoriums, meeting rooms, or facility grounds to an organization or group of citizens when the space or grounds are available and are not needed for regularly scheduled departmental services.

28.6(2) Members of outside organizations permitted to use a facility's space or grounds will observe the same rules as visitors to the facility.

This rule is intended to implement Iowa Code chapter 218.

441—28.7(218) Tours of facility. Groups or persons will be permitted to tour the facility only with approval of the superintendent or designee.

This rule is intended to implement Iowa Code section 218.4.

441—28.8(218) Donations. Donations of money, clothing, books, games, recreational equipment or other gifts will be made directly to the superintendent or designee. The superintendent or designee will evaluate the donation in terms of the nature of the contribution to the facility's program. The superintendent or designee will be responsible for accepting the donation and reporting the gift to the department. All monetary gifts will be acknowledged in writing to the donor.

This rule is intended to implement Iowa Code chapter 218.

441—28.9(217) Release of confidential information. Information defined by statute as confidential concerning individuals who currently receive or formerly received services from the mental health institutes or resource centers shall not be released to a person, agency or organization that is not

authorized by law to have access to the information unless the individual, parent, guardian, or legal representative authorizes the release. Authorization will be given by using an Authorization to Obtain or Release Health Care Information form provided by the department.

This rule is intended to implement Iowa Code section 217.30.

ITEM 2. Rescind 441—Chapter 29 and adopt the following **new** chapter in lieu thereof:

CHAPTER 29
MENTAL HEALTH INSTITUTES

441—29.1(218,229) Voluntary admissions.

29.1(1) *Application form.* Any individual who has symptoms of mental illness may apply for voluntary inpatient treatment or voluntary outpatient or day treatment using an application for voluntary admission to a mental health institute from the department's website.

29.1(2) *Minors.* A parent, guardian, or legal representative of a minor individual may make application for the individual's voluntary admission directly to the mental health institute using an application for voluntary admission to a mental health institute form. When a minor objects to the admission and the chief medical officer of the mental health institute determines that the admission is appropriate, the parent, guardian, or custodian must petition the juvenile court for approval of admission before the minor will be admitted.

441—29.2(229) Authorization for treatment. No individual receiving services, either on a voluntary or involuntary basis, will be provided treatment other than what is necessary to preserve life or protect others from physical injury unless:

1. The individual has given consent by signing a mental health institute agreement and consent to treatment form;
2. A court has ordered treatment; or
3. The individual's parent, guardian, or legal representative has given consent by signing a mental health institute agreement and consent to treatment form.

441—29.3(217,228,229) Rights of individuals. An individual receiving care from a state mental health institute will have the following rights.

29.3(1) *Information.* An individual receiving care from a state mental health institute will have the right to:

a. Receive an explanation and written copy of the rules of the facility.

b. Be provided information on the provisions of law pertaining to admission to and discharge from the facility.

c. Receive an explanation of the individual's medical condition and be informed of treatment plans and the attendant risks of treatment.

d. Be provided with complete and current information concerning the individual's diagnosis, treatment, and progress in terms and language understandable to the individual.

e. Have the information required in this subrule made available to the individual's parent, guardian, or legal representative when it is not feasible to give the information directly to the individual.

29.3(2) *Care and treatment.* An individual receiving care from a state mental health institute will have the right to:

a. Be evaluated promptly following admission and receive emergency services appropriate to the individual's needs.

b. Have a current individualized written plan of treatment.

c. Receive appropriate treatment, services, and rehabilitation for the individual's mental illness, including appropriate and sufficient medical and dental care.

d. Have the opportunity for educational, vocational, rehabilitative, and recreational programs appropriate to the individual's treatment needs.

e. Have the confidentiality of the individual's personal mental health institute records maintained and have access to those records within a reasonable period.

f. Have an individualized posthospitalization plan.

29.3(3) *Living conditions.* An individual receiving care from a state mental health institute will have the right to:

a. Live in the least restrictive conditions necessary to achieve the purposes of treatment.

b. Receive care in a manner that respects and maintains the individual's dignity and individuality.

c. Have opportunities for personal privacy, including during the care of personal needs.

d. Keep and use appropriate personal possessions, including wearing the individual's own clothing.

e. Be free from unnecessary drugs, restraints, and seclusion except when necessary to protect the immediate health or safety of the individual or others.

f. Be free from physical, psychological, sexual, or verbal abuse; neglect; and exploitation.

29.3(4) *Communication.* An individual receiving care from a state mental health institute will have the right to:

a. Have a family contact or representative of the individual's choice or the individual's community physician notified promptly of the individual's admission.

b. Communicate with people and access services at the facility and in the community, including organizing and participating in resident groups while at the facility.

c. Receive visits of the individual's choice from parents, guardians, legal representatives, or family without prior notice given to the facility unless the visits have been determined inappropriate by the individual's treatment team.

d. Communicate and meet privately with persons of the individual's choice without prior notice given to the facility unless the communication is determined inappropriate by the individual's treatment team.

e. Send and receive unopened mail.

f. Make and receive private telephone calls unless the calls have been determined inappropriate by the individual's treatment team.

g. Access current informational and recreational media such as newspapers, television, or periodicals.

29.3(5) *Self-determination.* An individual receiving care from a state mental health institute will have the right to:

a. Have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual.

b. Participate in the development and implementation of the individual's treatment plan.

c. Give informed consent, including the right to withdraw consent at any given time.

d. Refuse treatment (such as medication, surgery or electroconvulsive therapy) offered without the individual's expressed informed consent and be provided with an explanation of the consequences of those refusals unless treatment is necessary to protect the health or safety of the individual or is ordered by a court.

e. Immediate discharge (if admitted voluntarily) by submitting a written notice to the superintendent or chief medical officer unless a written request for involuntary hospitalization is submitted to a court.

f. Refuse to perform services for the facility and not be coerced to perform services.

g. Manage the individual's own financial affairs unless doing so is limited under law or determined not appropriate by the individual's treatment team.

h. Choose activities, schedules, and care consistent with the individual's interests, needs, and treatment plans.

i. Engage in social, religious, and community activities of the individual's choice.

j. Formulate advanced directives and be provided care in compliance with these directives.

29.3(6) *Advocacy.* An individual receiving care from a state mental health institute will have the right to:

a. Exercise the individual's rights as a citizen or resident of the United States.

b. File a grievance pursuant to rule 441—28.3(229) without any intimidation or reprisal resulting from the grievance.

c. Request a judicial review of the hospitalization, file for a writ of habeas corpus, have an attorney of the individual's choice, and communicate and meet privately with the individual's attorney without prior notice given to the facility.

441—29.4(218) Visiting.

29.4(1) Visiting hours will be posted in each facility. The physician may designate exceptions for special hours on an individual or ward basis. Therapy for the individual will take precedence over visiting. Visiting will not interfere with the individual's treatment program or meals.

29.4(2) A visit will be terminated when behavior on the part of the individual or visitor is disruptive to the individual's treatment plan.

29.4(3) Visiting on grounds will be permitted when the individual has a grounds pass.

29.4(4) Visitors wishing to take an individual off grounds will receive prior approval from the attending physician.

29.4(5) All visitors will obtain a visitor's pass at the switchboard or another area as designated by the superintendent and posted. The pass will be given to a ward employee before the visitor is allowed on the ward.

29.4(6) Persons under 12 years of age shall not visit on the ward.

These rules are intended to implement Iowa Code chapters 217, 218, 228, 229, and 230.

ITEM 3. Rescind 441—Chapter 30 and adopt the following **new** chapter in lieu thereof:

CHAPTER 30
STATE RESOURCE CENTER

441—30.1(218,222) Admission. Express written consent of the individual or the individual's parent, guardian, or legal representative shall be secured before admission.

30.1(1) *Application.*

a. Applications for the care, treatment, or evaluation of an individual by a resource center shall be made to the department.

b. The application shall be made using the form for application for admission to a state resource center and shall be accompanied by:

(1) A completed resource center agreement and consent for services form, and

(2) Other information specifically requested in writing by the resource center.

30.1(2) *Application for readmission.* When the application is for a readmission, the resource center may waive the resubmittal of any information already in the files other than the form for application for admission to a state resource center.

30.1(3) *Receipt of application.* Upon receipt of an application, the resource center may:

a. Provide an individual with outpatient evaluation treatment, training, or habilitation services; or

b. Admit an individual on a temporary basis for either:

(1) A preadmission diagnostic evaluation to determine whether the individual would be appropriate to admit to the regular program, or

(2) A diagnostic evaluation to assist in planning for community-based services or respite care.

30.1(4) *Eligibility for admission.* Eligibility for admission will be determined by:

a. A preadmission diagnostic evaluation,

b. An established diagnosis of intellectual disability,

c. The availability of an appropriate program, and

d. The availability of space at the facility.

This rule is intended to implement Iowa Code sections 222.13 and 222.13A.

441—30.2(222) Liability for support. The liability of any person, other than the individual, who is legally bound for the support of any individual under 18 years of age will be determined in the same manner as parent liability in rule 441—156.2(234), except that the maximum liability will not exceed the standards for personal allowances established by the department under the family investment program.

This rule is intended to implement Iowa Code section 222.78.

441—30.3(217,218) Rights of individuals.

30.3(1) *Information.* An individual receiving care from a state resource center has the right to:

a. Receive an explanation and written copy of the rules of the facility.

b. Receive an explanation of the individual's medical condition, developmental status, and behavioral status, and be informed of treatment plans and the attendant risks of treatment.

30.3(2) *Care and treatment.* An individual receiving care from a state resource center has the right to:

a. Receive appropriate treatment, services, and habilitation for the individual's disabilities, including appropriate and sufficient medical and dental care.

b. Have the confidentiality of the individual's personal resource center records maintained and have access to those records within a reasonable period.

c. Work, when available and desired and as appropriate to the individual's plan of treatment, and be compensated for that work in accordance with federal and state laws.

30.3(3) *Living conditions.* An individual receiving care from a state resource center has the right to:

a. Receive care in a manner that respects and maintains the individual's dignity and individuality.

b. Have opportunities for personal privacy, including during the care of personal needs.

c. Keep and use appropriate personal possessions, including wearing the individual's own clothing.

d. Share a room with a spouse when both live in the same facility.

e. Be free from unnecessary drugs and restraints.

f. Be free from physical, psychological, sexual, or verbal abuse; neglect; and exploitation.

30.3(4) *Communication.* An individual receiving care from a state resource center has the right to:

a. Communicate with people and access services at the facility and in the community, including organizing and participating in resident groups while at the facility.

b. Receive visits of the individual's choice from parents, guardians, legal representatives, or family without prior notice given to the facility unless the visits have been determined inappropriate by the individual's treatment team.

c. Communicate and meet privately with persons of the individual's choice without prior notice given to the facility unless the communication is determined inappropriate by the individual's treatment team.

d. Send and receive unopened mail.

e. Make and receive private telephone calls unless the calls have been determined inappropriate by the individual's treatment team.

30.3(5) *Self-determination.* An individual receiving care from a state resource center has the right to:

a. Have a dignified existence with self-determination, making choices about aspects of the individual's life that are significant to the individual.

b. Give informed consent, including the right to withdraw consent at any given time.

c. Refuse treatment (such as medication or behavioral interventions) offered without the individual's expressed informed consent and be provided with an explanation of the consequences of those refusals unless treatment is necessary to protect the health or safety of the individual or is ordered by a court.

d. Refuse to perform services for the facility and not be coerced to perform services.

e. Manage the individual's own financial affairs unless doing so is limited under law or determined not appropriate by the individual's treatment team.

f. Choose activities, schedules, and care consistent with the individual's interests, needs and care plans.

g. Engage in social, religious, and community activities of the individual's choice.

30.3(6) *Advocacy.* An individual receiving care from a state resource center has the right to:

a. Exercise the individual's rights as a citizen or resident of the United States.

b. File a grievance pursuant to rule 441—28.3(229) without any intimidation or reprisal resulting from the grievance.

This rule is intended to implement Iowa Code sections 217.30 and 218.4.

441—30.4(218) Visiting.

30.4(1) Individuals are encouraged to and will be able to receive visits from persons of the individual's choice and at times desired by the individual. At the individual's choice, the individual's parents, guardian, or legal representative or other members of the individual's family may visit without prior notice given to the facility.

30.4(2) Visits determined to be inappropriate or disruptive to the individual's treatment plan or the health and safety of other individuals may be denied or terminated.

30.4(3) An individual or other person denied visitation may file a grievance through the facility's grievance process.

This rule is intended to implement Iowa Code chapter 218.

Regulatory Analysis

Notice of Intended Action to be published: 441—Chapters 221 through 224 and 229
"Disability Services Rules"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 231 and 2024 Iowa Acts, House File 2673

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 231 and 2024 Iowa Acts, House File 2673

Public Hearing

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

February 25, 2025 11 a.m. to 12 noon	Microsoft Teams Meeting ID: 221 098 147 560 Passcode: LZ7452C4

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Health and Human Services no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Victoria L. Daniels
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.829.6021
Email: compliancerules@hhs.iowa.gov

Purpose and Summary

This proposed rulemaking implements, in part, 2024 Iowa Acts, House File 2673, which realigns disability service provisions with aging services delivery. These new chapters provide for disability services definitions, advisory councils, eligibility, Aging and Disability Resource Centers, and data collection requirements.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

The Department expects to realize lower administrative costs and increased efficiencies with the new service delivery system. In addition, the Department anticipates it will discover offsets due to payment for services that should have been covered by Medicaid. During the first two fiscal years of the new service delivery system, any overages in spending will be covered by the existing balance in the Region Incentive Fund.

- **Classes of persons that will benefit from the proposed rulemaking:**

Iowans with disabilities will benefit from this proposed rulemaking since it provides the framework for service delivery within the realigned system.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

In state fiscal year 2024, approximately 46,000 Iowans with mental health conditions, substance use disorders, or disabilities were served. Going forward, the number of Iowans served under these proposed chapters will be a subset of that number due to the realignment of Iowa's existing mental health and disability services system prompted by 2024 Iowa Acts, House File 2673.

- **Qualitative description of impact:**

This proposed rulemaking facilitates the transfer of the State's disability services system to the Department's Division of Aging and Disability Services.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

The Department will continue to incur personnel and other administrative costs. Additionally, the contracted Disability Access Points (DAPs) may incur administrative costs that will be absorbed by existing funding during the first two fiscal years of the new service delivery system.

- **Anticipated effect on state revenues:**

During the first two fiscal years of the new service delivery system, any overages in spending will be covered by the existing balance in the Region Incentive Fund. The Department does not expect to require any additional state revenues during that time period.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Rulemaking is required by 2024 Iowa Acts, House File 2673.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

Rulemaking is prescribed by 2024 Iowa Acts, House File 2673. However, all effort has been made to avoid including language that is covered in contracts, policies and procedures, and state plans.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This rulemaking has no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** Title XVII to precede **441—Chapter 221**:

TITLE XVII
AGING AND DISABILITY SERVICES

ITEM 2. Adopt the following **new** 441—Chapter 221:

CHAPTER 221
DISABILITY SERVICES DEFINITIONS

441—221.1(225A) Definitions. For the purpose of this chapter and 441—Chapters 222 through 224 and 229, the following definitions apply:

"Adult" means a person or persons 18 years of age and over.

"Caregiver" means an adult family member or other individual who has a significant relationship with, and who provides a broad range of assistance to, an individual with a chronic or other health condition, disability, or functional limitation. "Caregiver" also means a family member, friend, or neighbor who provides unpaid assistance to a person with a chronic illness or disabling condition.

"Chairperson" means the chairperson of the disability services advisory council who has been appointed by the DAP.

"Child" or *"children"* means a person or persons under 18 years of age.

"Disability" means the same as defined in Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. §12012 as amended to July 1, 2025).

"Disability access point" or *"DAP"* means a local organization designated by the department to serve as the primary access points for people with disabilities and their caregivers. DAPs serve as aging and disability resource center (ADRC) member organizations as defined in rule 441—224.1(231).

"Disability services advisory council" or *"DSA council"* means a council established by each DAP to identify opportunities, address challenges, and advise the DAP.

"Long-term services and supports" or *"LTSS"* means activities that support maintaining people with disabilities at the lowest level of care possible, including facility diversion or transition to community as determined through the DAP processes for eligibility and service determination. LTSS will be outlined in the individual's service plan between the individual, care team, and DAP.

"Service coordination" means an active, transitional, and ongoing process that involves assisting an eligible individual in gaining access to and coordinating the provision of services, using person-centered practices in all contacts with individuals and their caregivers, and coordinating the services identified in the service plan.

"Short-term services and supports" or *"STSS"* means time-limited activities focused on supporting people with disabilities to live in the home and community of their choice in an integrated manner and offering support to their families and caregivers as needed toward this purpose. STSS will be outlined in the individual's service plan between the individual, care team, and DAP.

This rule is intended to implement Iowa Code section 231.23.

ITEM 3. Adopt the following **new** 441—Chapter 222:

CHAPTER 222
DISABILITY SERVICES ADVISORY COUNCILS

441—222.1(231) Appointment.

222.1(1) The members of a council will be recruited by the DAP.

222.1(2) The appointments will be for three-year staggered terms, which will expire on June 30.

222.1(3) Vacancies will be filled in the same manner in which the original appointments were made for the balance of the unexpired term.

222.1(4) Absences.

a. Three unexcused absences in a 12-month period constitutes grounds for the DAP to request nomination of an alternate representative to fill the position.

b. Absences may be excused by notification provided to the chairperson prior to the meeting.

c. The chairperson of a council is charged with providing notification of absences to the DAP.

441—222.2(231) Officers.

222.2(1) Officers of a council will consist of a chairperson and a vice chairperson. The chairperson will be appointed by the DAP. The vice chairperson will be elected at the first meeting of each fiscal year.

a. The vice chairperson may serve no more than three consecutive terms.

b. Vacancies in the office of chairperson will be filled by elevation of the vice chairperson for 60 days until a new appointment can be made by the DAP.

c. Vacancies in the office of vice chairperson will be filled by election at the next meeting after the vacancy occurs.

d. A vacancy must be filled by an individual meeting the same qualifications as the departing council member in accordance with Iowa Code chapter 231.

222.2(2) Duties of officers.

a. The chairperson will:

(1) Preside at all meetings of the council;

(2) Appoint subcommittees as deemed necessary; and

(3) Designate the chairperson of each subcommittee.

b. The vice chairperson will:

(1) Perform the duties of the chairperson if the chairperson is absent or unable to act. When so acting, the vice chairperson will have all the powers of and be subject to all restrictions upon the chairperson.

(2) Perform other duties as may be assigned by the chairperson.

441—222.3(231) Meetings.

222.3(1) A council will establish a meeting schedule on an annual basis to conduct its business. There will be a minimum of four meetings per year.

222.3(2) A majority of appointed members constitutes a quorum.

222.3(3) When a quorum is present, a position is carried by an affirmative vote of the majority of those present. No official business that requires a vote of the membership will be conducted without a quorum present.

441—222.4(231) Subcommittees. A council may designate one or more subcommittees to perform such duties as may be deemed necessary.

441—222.5(231) Expenses of preparedness advisory committee voting members. The following may be considered necessary expenses for reimbursement of council members who are individuals with disabilities or caregivers when incurred on behalf of council business and are subject to established state reimbursement rates:

1. Reimbursement for travel in a private car.
2. Actual lodging and meal expenses, including sales tax on lodging and meals.
3. Actual expense of public transportation.

441—222.6(231) Council composition. A council's composition must include nine members with at least 50 percent of members being individuals with disabilities or caregivers.

These rules are intended to implement Iowa Code chapter 231.

ITEM 4. Adopt the following **new** 441—Chapter 224:

CHAPTER 224
AGING AND DISABILITY RESOURCE CENTERS

441—224.1(231) Definitions.

"Aging and disability resource center" or *"ADRC"* means a person-centered navigation and coordination system that blends and braids service delivery methods and funding to ensure supports and services contribute to a consumer's ability to remain at home and in the consumer's community. Supports and services are provided according to the individual's wants and needs.

"Aging and disability resource center member organization" or *"ADRC member organization"* means a local ADRC organization that provides ADRC information and assistance and person-centered functions at the local level.

"Information and assistance" means a service that provides an individual with current information on opportunities and services available within the individual's communities; identifies the problems and capacities of the individual; links the individual to the opportunities and services that are available; and, to the maximum extent practicable, ensures that the individual receives the services needed and is aware of the opportunities available by establishing adequate follow-up procedures.

"Medicaid administrative claiming" or *"MAC"* means federal matching funds under Medicaid are available for costs incurred by the state for administrative activities that directly support efforts to identify and enroll potential eligibles into Medicaid; support the provision of medical services covered under the state Medicaid plan when those activities are performed either directly by Iowa Medicaid or through contract or interagency agreement with another entity, such as a designated ADRC; or both.

"Navigator" means a person who provides ADRC information and assistance services, options counseling services, or both.

"Options counseling" means an interactive process whereby individuals receive guidance to make an informed choice about long-term supports. The process is directed by the individual and may include others whom the individual chooses or those who are legally authorized to represent the individual.

"System navigation" means in-person, online, and telephonic support for problem solving and navigation of the services and supports available. System navigators ensure individuals and families who encounter barriers in accessing services and support are able to navigate health care, social services, and legal systems.

441—224.2(231) Department responsibilities.

224.2(1) Pursuant to Iowa Code section 231.64, the department will administer ADRCs.

224.2(2) The department's responsibilities are as follows:

a. Perform all duties mandated by federal and state law.

b. Designate ADRC member organizations and withdraw designation. If the department terminates its contract with an ADRC member organization for any reason, the entity is no longer designated by the department as an ADRC member organization.

c. Provide oversight of the ADRC to ensure compliance with federal and state law and applicable rules and regulations.

d. Monitor the operations and performance of the ADRC.

e. Develop and use data and indicators to measure and assess the performance of the ADRC to ensure quality services, fair treatment, cost-effectiveness, and consumer satisfaction.

441—224.3(231) ADRC member organizations. The department designates entities as ADRC member organizations.

441—224.4(231) ADRC member organization responsibilities.

224.4(1) An ADRC member organization will provide services to eligible populations in its service area via telephone, in-person, or electronic communications.

224.4(2) An ADRC member organization will be physically accessible and provide services in a private and confidential manner.

224.4(3) An ADRC member organization will ensure a system is available for answering and responding to messages received outside of the regular business hours.

224.4(4) An ADRC member organization will provide services to a person by using clear language and providing for reasonable accommodations.

224.4(5) An ADRC member organization will provide person-centered supports and navigation services according to the individual's personal preferences, identified needs, and unique capabilities to remain living at home and in the individual's community.

224.4(6) An ADRC member organization will identify itself as an ADRC. The ADRC's name may be the primary name or a subtitle to another name, but the designation of ADRC will be included in all advertising and outreach materials.

224.4(7) An ADRC member organization will adhere to the department's Medicaid ADRC federal financial participation (FFP) process for MAC. Participation in MAC for activities that facilitate access to, or are in support of, Iowa's Medicaid state plan are allowable. The ADRC will comply with the department-approved ADRC MAC methodologies.

441—224.5(231) ADRC member organization staff requirements and background checks.

224.5(1) *Staffing.* The ADRC member organization will ensure adequate staffing levels to meet the needs of the service delivery area. Staff performing ADRC services will demonstrate competency and knowledge pertinent to the staff's areas of responsibility. Additionally, the ADRC will establish and maintain background check policies and procedures.

224.5(2) *Training and mandatory reporter status.* ADRC navigators are mandatory reporters pursuant to Iowa Code chapter 235B and will adhere to federal and state law and applicable rules for mandatory reporters.

441—224.6(231) Services. The ADRC will provide information and assistance and options counseling as defined within the contract issued by the department.

441—224.7(231) Appeals and grievances.

224.7(1) The ADRC will implement a process for reviewing and resolving individual grievances.

224.7(2) The department will issue a notice of adverse action in accordance with 441—Chapter 16. The right to appeal will be given by the department in accordance with 441—Chapter 7.

441—224.8(231) Reporting and records authority. The director is the principal officer of the state to administer ADRC data reporting. On behalf of the department, the ADRC shall report individual-level client data, information, and performance as required by the department. The ADRC shall also cooperate with any external review of its activities by the department or the federal government. The ADRC shall submit data according to the frequency, file layouts, format, and naming conventions prescribed by the department.

441—224.9(231) Confidentiality. The ADRC shall not disclose records that contain personally identifiable information concerning an individual receiving services to entities outside the department without the individual's informed consent or as authorized or required by law.

These rules are intended to implement Iowa Code section 231.64.

ITEM 5. Adopt the following **new** 441—Chapter 229:

CHAPTER 229
DATA COLLECTION

441—229.1(231) Authority. The director is the principal officer of the state to administer DAP aging and disability services data reporting. The department will collect and maintain data on all clients served in accordance with Iowa Code section 231.56.

229.1(1) *Submission of data.* Each DAP shall submit to the department the data regarding each individual that the DAP serves.

a. DAPs shall submit data according to the frequency, file layouts, format, and naming conventions prescribed by the department.

b. When a DAP is notified by the department that the data are incomplete or are not compliant with the prescribed file layouts, format, or naming conventions, the DAP must correct the issue within 30 days of the notification.

229.1(2) *Data required.* The data to be submitted are as follows:

a. Individual client-level information, including a unique identifier, name, address, demographic information, service delivery information, referral information, and any other information as prescribed by the department.

b. The state identification number, when applicable.

c. Demographic information, including but not limited to date of birth, sex, ethnicity, marital status, education, residential living arrangement, current employment status, monthly income, income sources, type of insurance, insurance carrier, veteran status, guardianship status, legal status in the system, source of referral, and diagnosis code in the International Classification of Diseases (ICD) as amended to July 1, 2025.

d. Service information, including but not limited to the decision on services, date of decision, termination date and reason for termination, residence, approved service, service beginning dates, service ending dates, reason for terminating each service, approved units of services, unit rate for service, expenditure data, and provider data.

This rule is intended to implement Iowa Code section 231.56.

Regulatory Analysis

Notice of Intended Action to be published: 191—subrule 59.3(4)
"Timely Payment of Pharmacy Claims"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 510B.11

State or federal law(s) implemented by the rulemaking: 510B.11 and 2022 Iowa Acts, House File 2384

Public Hearing

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

February 28, 2025	1963 Bell Avenue, Suite 100
11 a.m.	Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Insurance Division no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Angela Burke Boston
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6543
Email: angela.burke.boston@iid.iowa.gov

Purpose and Summary

These proposed amendments to Chapter 59 reflect changes necessary to conform with statutory provisions and reduce harm to public welfare by ensuring the timely payment of pharmacy claims.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Pharmacy benefits managers doing business in the state of Iowa will bear the costs.

- **Classes of persons that will benefit from the proposed rulemaking:**

Pharmacies doing business in the state of Iowa will benefit.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There is no quantitative impact.

- **Qualitative description of impact:**

There is no qualitative impact.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no known costs.

- **Anticipated effect on state revenues:**

There is no effect on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The rulemaking amends language to conform with statutory provisions and reduce harm to public welfare by ensuring the timely payments of pharmacy claims.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Insurance Division did not find any other less costly or less intrusive methods.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Alternative methods were not considered by the agency.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The rulemaking ensures the timely payment of pharmacy claims and is critical to the enforcement of statutory provisions and the protection of public welfare.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no effect on small business.

Text of Proposed Rulemaking

ITEM 1. Amend rule 191—59.3(510B) as follows:

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) A payment to the pharmacy for a clean claim is considered to be overdue and not timely if not paid within 20 or 30 days, whichever is applicable. If a clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) A pharmacy benefits manager may demonstrate the date a claim is paid by a mail record or a bank statement.

59.3(4) Pursuant to Iowa Code section ~~510B.4 and paragraph 59.4(1) "j,"~~ 510B.8C, a pharmacy benefits manager shall not retroactively reduce ~~or increase~~ reimbursement, through adjustment or reconciliation or any other means, of a clean claim paid to pharmacies.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 135
"Warning Lights on Vehicles or Equipment in Road Work Zones"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.423(7)"a"
State or federal law(s) implemented by the rulemaking: Iowa Code section 321.423(7)"a"

Public Hearing

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

February 25, 2025 1 to 1:30 p.m.	Microsoft Teams Or dial: 515.817.6093 Conference ID: 414 627 489

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Brian Worrel
800 Lincoln Way
Ames, Iowa 50010
Phone: 515.239.1471
Email: brian.worrel@iowadot.us

Purpose and Summary

The purpose of this proposed rule is to establish the eligibility of vehicles or equipment that are not owned or operated by the Department to use flashing white lights in road work zones on state or local highways.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs resulting from the proposed rule.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons operating vehicles or equipment in road work zones and the traveling public will benefit from this chapter.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

The impact is unknown because there are no known metrics on installation and use of flashing white lights on nonstate-owned vehicles and equipment.

- **Qualitative description of impact:**

Allowing flashing white lights on nonstate-owned vehicles and equipment increases the visibility of construction vehicles and equipment on or adjacent to the roadway within road work zones.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs resulting from the proposed rule.

- **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

There are no increased benefits or decreased costs with inaction.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods to achieve the purpose of the proposed rule.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider alternatives to the proposed rule.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Iowa Code section 321.423(7)"a" requires the Department to adopt rules.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 135 and adopt the following **new** chapter in lieu thereof:

CHAPTER 135
WARNING LIGHTS ON VEHICLES OR EQUIPMENT IN ROAD WORK ZONES

761—135.1(321) White warning lights on vehicles or equipment in road work zones.

135.1(1) *Purpose.* The purpose of this rule is to establish the eligibility of vehicles or equipment that are not owned or operated by the department to use flashing white lights in accordance with Iowa Code section 321.423(7)*"a."*

135.1(2) *Eligibility.* A vehicle or other equipment that is not owned or operated by the department may use a flashing white light while the vehicle or other equipment is being used in road work zones on state or local highways.

135.1(3) *Information.* Information regarding this rule is available from the Construction and Materials Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; or by telephone at 515.239.1352.

This rule is intended to implement Iowa Code section 321.423(7)*"a."*

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 511
"Special Permits for Operation and Movement of
Vehicles and Loads of Excess Size and Weight"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.457(2)"n" and 321E.15
State or federal law(s) implemented by the rulemaking: Iowa Code sections 29C.6, 312.2, 321.12, 321.122, 321.454, 321.456, 321.457, 321.463, and 321.492 and chapter 321E

Public Hearing

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

February 28, 2025 1 to 1:30 p.m.	Microsoft Teams Phone: 515.817.6093 Conference ID: 151 891 122

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to comply with Iowa Code chapter 321E by outlining the application and eligibility requirements to obtain special permits for operation and movement of vehicles and loads of excess size and weight. A special permit is required before overweight or overdimensional vehicles may operate on Iowa roadways unless the movement is specifically exempted. The chapter also implements designation of economic export corridors as authorized by Iowa Code section 321.457.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs or fees associated with this chapter beyond what is required by the underlying statute. Rather, the purpose of the rules is to establish the eligibility requirements, application process, and guidelines for special permits.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons seeking to obtain special permits will benefit from this chapter by knowing the eligibility criteria, application process, and guidelines for special permits.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no additional quantitative impacts that were not already anticipated as a result of the underlying statute, which requires the Department to have a process in place to issue special permits to qualified applicants.

- **Qualitative description of impact:**

Reorganizing, streamlining, and reducing redundancy in the proposed chapter will have the positive result of producing a more user-friendly version of information, which the public relies on for understanding how to obtain a special permit.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs in the proposed rules that were not already required as a result of the underlying statute. The statute requires the Department to have a process in place to issue special permits to qualified applicants.

- **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond those resulting from the underlying statute.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The benefit of the proposed chapter is consistency and transparency on the processes and requirements for obtaining special permits in Iowa.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain and maintain special permits in Iowa.

There is no benefit of inaction.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to have a process in place to issue special permits to qualified applicants.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all persons seeking a special permit under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 511 and adopt the following **new** chapter in lieu thereof:

CHAPTER 511
SPECIAL PERMITS FOR OPERATION AND MOVEMENT OF VEHICLES AND LOADS OF EXCESS SIZE AND WEIGHT

761—511.1(321E) Definitions. As used in this chapter, unless the context otherwise requires:

"Compacted rubbish vehicle" means any vehicle hauling rubbish that has been mechanically compacted with a hydraulic, electric, or air-operated ram.

"Dimensions" or *"size"* means length, width or height limits.

"Emergency interstate permit" means a permit issued under Iowa Code section 321E.29B.

"Fluid milk product" means the same as defined in Iowa Code section 321E.29B(3).

"Indivisible load" means any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would:

1. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended;
2. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or
3. Require more than eight work hours to dismantle using appropriate equipment. The applicant for an indivisible load permit has the burden of proof as to the number of work hours required to dismantle the load.

"Overdimensional" or *"oversize"* means the exceeding of statutory length, width or height limits.

"Permit" means a permit issued under Iowa Code chapter 321E for the movement of an overdimensional or overweight vehicle, combination of vehicles, or vehicle with load. The term includes any additions or supplements thereto issued by the permit-issuing authority.

"Permit-issuing authority" means the:

1. Department's motor vehicle division for permits for movement on the primary road system.
2. Authority responsible for the maintenance of a nonprimary system of highways or streets for permits for movement on that system. However, the motor vehicle division may issue single-trip permits on primary road extensions in cities in conjunction with movement on the rural primary road system.

"Primary roads" or *"primary road system"* means the same as defined in Iowa Code section 306.3. The primary road system includes the interstate road system.

"Raw forest products" means the same as defined in Iowa Code section 321E.26.

"Rubbish" means any unwanted or useless material that has no commercial or practical value or use and that would normally be discarded.

"Special or emergency situation" means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to an event such as but not limited to pollution of natural resources, a potential fire or an explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where the movement involves emergency-type vehicles.

7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

8. Other unique circumstances that warrant the issuance of a permit as determined by the permit-issuing authority.

"Stafford Act" means the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law No. 93-288, as amended, 42 U.S.C. §5121 et seq.

"Statutory" when used with size or weight limits refers to those limits found in Iowa Code chapter 321.

This rule is intended to implement Iowa Code sections 321E.9, 321E.15, 321E.26, 321E.29, 321E.29B, 321E.30 and 321E.34.

761—511.2(321E) General information.

511.2(1) Permits may be obtained electronically upon making application to the motor vehicle division at www.iowadot.gov/mvd/motorcarriers/oversize-overweight-trip-permits. Applications, forms, instructions and restrictions are also available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.237.3264; or by facsimile at 515.237.3257.

511.2(2) No overdimensional or overweight vehicle, combination of vehicles, or vehicle with load shall be moved on the highways of this state without permit except as provided in Iowa Code section 321.453.

511.2(3) Except as provided in rule 761—511.10(312,321,321E) or 761—511.18(321,321E), permits may be issued only for the transporting of a single article that exceeds statutory size or weight limits, or both, and that cannot reasonably be divided or reduced to statutory size and weight limits. However, permits may be issued for the transporting of property consisting of more than one article when:

a. The statutory weight limits are not exceeded,

b. One of the articles exceeds the statutory size limits, and

c. The inclusion of other articles does not cause the statutory size limits to be exceeded by an additional amount.

511.2(4) Nothing in the permit shall be construed as waiving any load limits that have been or that might be established on any bridge or any road that is posted with embargo signs unless specifically stated on the permit.

511.2(5) The state of Iowa, the department, and any other permit-issuing authority assume no responsibility for the property of the permit holder. Permit holders shall hold permit-issuing authorities harmless of any damages that may be sustained by the traveling public, adjacent property owners or the highways of this state on account of movements made under permit.

This rule is intended to implement Iowa Code sections 321E.2 and 321E.15.

761—511.3(321E) Movement under permit.

511.3(1) During the movement of a vehicle or object under permit, the permit holder shall comply with the terms and conditions of the permit and take all reasonable precautions to protect and safeguard the lives and property of the traveling public and adjacent property owners.

511.3(2) Movement shall be made only when roads are clear of ice and snow and visibility is at least one-quarter mile. Snow removal equipment operating under permit is exempt from this restriction while snow removal operations are conducted. Nothing in this subrule shall be construed to mean that the movement of a compacted rubbish vehicle permitted under rule 761—511.12(321E) is subject to this restriction.

511.3(3) Movement will be permitted only during the hours from one-half hour before sunrise to one-half hour after sunset unless the permit qualifies for continuous movement under subrule 511.3(5)

or it is established by the permit-issuing authority that the movement can be better accomplished at another period of time.

511.3(4) Except as provided in Iowa Code section 321.457, no movement will be permitted on the holidays of Memorial Day, Independence Day and Labor Day, after 12 noon on days preceding these holidays and holiday weekends, during holiday weekends, or during special events when abnormally high traffic volumes can be expected. A holiday weekend occurs when the holiday falls on Friday, Saturday, Sunday or Monday. No movement will be permitted until one-half hour before sunrise on the day after the holiday or holiday weekend.

511.3(5) Vehicles and loads may travel by permit between one-half hour after sunset and one-half hour before sunrise if, in addition to the general provisions and general requirements specified by the permit, the following conditions are met.

a. Dimensions do not exceed:

(1) Width. 12 feet.

(2) Height. 14 feet, 6 inches.

(3) Length. 100 feet.

(4) Weight. Legal axle limits.

b. Travel occurs on roadways with a minimum width of 22 feet and minimum lane width of 11 feet.

c. Safety lighting is provided at the widest part of a load. The lamps may be placed at the outer ends of the load itself or on appurtenances that are equal in width to the widest part of the load and positioned at both the extreme front and rear of the vehicle or trailer as follows:

(1) One lighted red lamp on each side at the rear of the load.

(2) One lighted yellow or amber lamp on each side at the front of the load.

This rule is intended to implement Iowa Code sections 321E.2, 321E.11 and 321E.15.

761—511.4(321E) Permits. The department may issue permits in writing or in electronic format, including single-trip, multitrip, annual oversize, annual oversize/overweight, annual raw forest products, annual small crane, compacted rubbish, emergency interstate, annual fluid milk products, annual all-systems oversize, or annual all-systems overweight permits.

511.4(1) *Methods of issuance.* Permits for movement on the primary road system may be obtained in person, by facsimile, online, or by mail at the address in subrule 511.2(1).

511.4(2) *Forms.*

a. The department will accept applications for permits for movement on the primary road system online or in the form and manner prescribed by the department.

b. Other permit-issuing authorities receiving applications made upon department forms must deem the applications sufficient and properly made.

c. Subject to the preceding paragraph, permit-issuing authorities may adopt, amend or modify department forms provided that the amended or modified forms adequately identify the applicant, the hauling vehicle and load, the manner and extent that the vehicle with load exceeds the statutory size and weight limits, the route, and the authorization of the issuing authority. However, the load for a multitrip permit does not have to be identified but the vehicle and load cannot exceed either the weight per axle or the total weight identified on the multitrip permit. Axle spacings cannot change.

511.4(3) *Validity.*

a. Annual oversize, annual oversize/overweight, annual raw forest products, annual small crane, compacted rubbish, annual fluid milk products, annual all-systems oversize, and annual all-systems overweight permits expire one year from the date of issuance.

b. A single-trip permit is effective for five days.

c. The validity of a multitrip permit does not exceed 60 calendar days.

d. Emergency interstate permits issued under Iowa Code section 321E.29B are effective for 30 calendar days. However, the permit will not be valid past the expiration of the applicable governor's proclamation of disaster emergency issued under Iowa Code section 29C.6 in conjunction with the

presidential declaration allowing interstate travel under the Stafford Act or the expiration of the declaration of major disaster under the Stafford Act, whichever expires first.

511.4(4) *Duplicate permit.* If a permit is lost or destroyed before it has expired, a duplicate permit may be issued at the discretion of the permit-issuing authority. The expiration date on the duplicate permit will be the same as on the original permit.

This rule is intended to implement Iowa Code sections 321E.2, 321E.3, 321E.8, 321E.9, 321E.15 and 321E.29B.

761—511.5(321,321E) Fees and costs.

511.5(1) *Issuance and payment.* A permit will not be issued until the required fees and costs are paid in the manner and format prescribed by the department.

511.5(2) *Special or emergency oversize permit for certain divisible loads.* The fee for each single-trip permit issued pursuant to Iowa Code section 321E.27 is $35.

511.5(3) *Permit transfers.* The department may allow transfer of the following permit types to a replacement vehicle when the original vehicle has been damaged in an accident, junked or sold:

a. Annual oversize/overweight.

b. Annual all-systems overweight.

c. Annual small crane.

511.5(4) *Duplicate permit.* The fee for a duplicate permit is $2.

511.5(5) *Registration fee.* A registration fee will be charged for vehicles transporting buildings, except mobile homes and factory-built structures, on a single-trip basis. The vehicle shall be registered for the combined gross weight of the vehicle and load, and the fee is 5 cents per ton exceeding the weight registered under Iowa Code section 321.122 per mile of travel. Fees will not be prorated for fractions of miles.

511.5(6) *Fair and reasonable costs.* Permit-issuing authorities may charge any permit applicant:

a. A fair and reasonable cost for the removal and replacement of natural obstructions or official signs and signals.

b. A fair and reasonable cost for measures necessary to avoid damage to public property including structures and bridges.

This rule is intended to implement Iowa Code sections 321.12, 321.122, 321E.8, 321E.9, 321E.14, 321E.15, 321E.29, 321E.29A and 321E.30.

761—511.6(321E) Insurance and bonds.

511.6(1) *Insurance.*

a. Permittees must maintain, and carry in the permitted vehicle a copy of the current insurance certificate as proof of, public liability insurance in the amounts of $100,000 bodily injury each person, $200,000 bodily injury each occurrence, and $50,000 property damage with an expiration date to cover the tenure of the annual oversize, annual oversize/overweight, annual raw forest products, annual small crane, annual all-systems oversize, annual all-systems overweight, multitrip, emergency interstate, annual fluid milk products or single-trip permit. Proof of liability insurance may be either in writing or in electronic format.

b. Notwithstanding paragraph 511.6(1)*"a,"* a carrier may act as a self-insurer if an application for self-insurance is filed with and approved by the department.

511.6(2) *Bond.*

a. The permit-issuing authority may require the applicant to file a bond, certified check or other assurance in an amount sufficient to cover the reasonably anticipated cost of damage or loss to private property, either real or personal, likely to be caused by or arising out of the movement of the vehicle and load or to ensure compliance with permit provisions.

b. The amount in the preceding paragraph may be reduced either in whole or in part by the applicant's submission to the permit-issuing authority of written permission from an affected third party stating in substance that the third party either owns or has the right of exclusive possession and

control over the affected property, does by the party's signature consent to the move and that the applicant has in hand paid or secured the payment of the anticipated cost of loss or damage to the party's property.

This rule is intended to implement Iowa Code sections 321E.8, 321E.9, 321E.13, 321E.15 and 321E.29B.

761—511.7(321,321E) Annual oversize permits. Annual oversize permits are issued for indivisible vehicles or indivisible loads for travel when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf. Annual oversize permits are issued for the following:

511.7(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 12 feet 5 inches including appurtenances.

b. Length. 120 feet 0 inches overall.

c. Height. 13 feet 10 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is allowed for unlimited distance; routing through the motor vehicle division is not required.

511.7(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 14 feet 6 inches.

b. Length. 120 feet 0 inches overall.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is restricted to 50 miles unless trip routes are obtained from the motor vehicle division or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.7(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. Width. 16 feet 0 inches.

b. Length. 120 feet 0 inches.

c. Height. 15 feet 5 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Trip routes must be obtained from the motor vehicle division.

511.7(4) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

a. Width. Not to exceed 10 feet 0 inches.

b. Length. Overall combination length must comply with Iowa Code section 321.457.

c. Height. Statutory: Not to exceed 13 feet 6 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Roadway width. At least 24 feet 0 inches.

f. Limited movement. Only movement limited to the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and on the most direct route necessary for the movement is allowed.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, 321E.15 and 321E.29A.

761—511.8(321,321E) Annual oversize/overweight permits. Annual oversize/overweight permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. Travel is not allowed on the interstate. However, a carrier moving under this annual oversize/overweight permit may operate under the same restrictions as an annual oversize permit under rule 761—511.7(321,321E) when the vehicle meets the dimensions required by that rule. Routing is subject to embargoed bridges and roads and posted speed limits. Annual oversize/overweight permits are issued for the following:

511.8(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 13 feet 5 inches.

b. *Length.* 120 feet 0 inches.

c. *Height.* 15 feet 5 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Routing.* The owner or operator shall select a route using a vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. Route, detour and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf.

511.8(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.9 and 321E.15.

761—511.9(321,321E) Annual all-systems oversize permits. Annual all-systems oversize permits are issued by the motor vehicle division for indivisible vehicles or indivisible loads for travel on the primary road system and specified city streets and county roads when the dimensions of the vehicle or load exceed statutory limits but the weight is within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The department will provide a map of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for the following:

511.9(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 12 feet 5 inches including appurtenances.

b. *Length.* 120 feet 0 inches overall.

c. *Height.* 13 feet 10 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the motor vehicle division and city and county jurisdictions is not required.

511.9(2) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 14 feet 6 inches.

b. *Length.* 120 feet 0 inches overall.

c. *Height.* 15 feet 5 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Distance.* Movement is restricted to 50 miles unless trip routes are obtained from the motor vehicle division and city and county jurisdictions or the route continues on at least four-lane roads. Trip routes are valid for five days.

511.9(3) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 16 feet 0 inches.

b. *Length.* 120 feet 0 inches.

c. *Height.* 15 feet 5 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Distance.* Trip routes must be obtained from the motor vehicle division and city and county jurisdictions.

511.9(4) Truck trailers manufactured or assembled in the state of Iowa provided the following are met:

a. *Width.* Not to exceed 10 feet 0 inches.

b. *Length.* Overall combination length complies with Iowa Code section 321.457.

c. *Height.* Statutory: Not to exceed 13 feet 6 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Roadway width.* At least 24 feet 0 inches.

f. *Limited movement.* Only movement limited to the purpose of delivery or transfer from the point of manufacture or assembly to another point of manufacture or assembly within the state or to a point outside the state and on the most direct route necessary for the movement is allowed.

511.9(5) Necessary trip routes must be obtained from the appropriate city and county jurisdictions.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.15.

761—511.10(312,321,321E) Annual all-systems overweight permits.

511.10(1) *Issuance.* Annual all-systems overweight permits are issued by the department for indivisible vehicles or indivisible or divisible loads for travel on the primary road system and specified city streets and county roads when the weight of the vehicle or load exceeds statutory limits but the dimensions are within statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The department will provide a map of the authorized city streets and county roads. Permit holders shall consult with local officials when traveling on county roads or city streets for bridge embargo, vertical clearance, detour, and road construction information. These permits are issued for vehicles with divisible or indivisible loads provided the following are not exceeded:

a. *Width.* Statutory: 8 feet 6 inches including appurtenances.

b. *Length.* Statutory: 75 feet 0 inches overall.

c. *Height.* Statutory: 13 feet 6 inches.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Distance.* Movement is allowed for unlimited distance; routing through the motor vehicle division and city and county jurisdictions is not required.

511.10(2) *Distribution of monthly credit.* In accordance with Iowa Code section 312.2(18), the department will allocate the monthly credit as follows:

a. The department will maintain a list of participating counties. The list will be updated on a monthly basis as determined by the department after consultation with county officials through their representative organizations.

b. The monthly credit will be divided among the participating counties as determined by the department after consultation with county officials through their representative organizations.

c. The funds from the monthly credit will be distributed to each participating county based on the list of participating counties for the applicable month.

This rule is intended to implement Iowa Code sections 312.2, 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10 and 321E.15.

761—511.11(321,321E) Multitrip permits. Multitrip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit allows unlimited trips along a specific route between one point of origin and one point of destination. Additional routes will require a new permit. Multitrip permits are issued for the following:

511.11(1) Multitrip permits may be issued for vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* 16 feet.

b. *Length.* 120 feet.

c. *Height.* 15 feet 5 inches.

d. *Weight.* 156,000 pounds total gross weight.

e. *Distance.* On routes specified by the permit-issuing authority.

511.11(2) Multitrip permits may be issued for all movements allowed under the single-trip permit provisions of rule 761—511.13(321,321E) provided the movement is within the size and weight limitations of subrule 511.11(1).

511.11(3) The dimensions listed on the permit are considered maximums. The movement is legal as long as the vehicle and load do not exceed these dimensions and the movement meets all other requirements of Iowa Code chapter 321E and this chapter.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.9A and 321E.15.

761—511.12(321E) Compacted rubbish vehicle permits. All compacted rubbish vehicle permits issued by the department are subject to the following criteria:

511.12(1) Permits are issued in writing or in an electronic format and are to be carried in the vehicle for which the permit has been issued and made available for inspection by any peace officer or authorized agent of any permit-granting authority.

511.12(2) Movements by permit are allowed day and night, seven days a week, including holidays.

511.12(3) Vehicles traveling under permit are registered for the gross weight or combined gross weight of the vehicle and load.

511.12(4) Vehicles under permit are in compliance with posted bridge and road embargoes and speed limits.

511.12(5) Maximum axle weight allowed on the interstate system is 20,000 pounds on a single axle and 34,000 pounds on a tandem axle.

This rule is intended to implement Iowa Code sections 321E.15 and 321E.30.

761—511.13(321,321E) Single-trip permits. Single-trip permits are issued for indivisible vehicles or indivisible loads for travel when either the dimensions or the weight or both the dimensions and the weight exceed statutory limits. The permit is for a specific route between an origin and destination. Single-trip permits are issued for the following:

511.13(1) Vehicles with indivisible loads, including special mobile equipment, mobile homes and factory-built structures, provided the following are not exceeded:

a. *Width.* Limited to the maximum physical limitations and clearances of the roadway and infrastructure along the intended route of travel.

b. *Length.* Limited to the maximum physical limitations and clearances of the roadway along the intended route of travel.

c. *Height.* Limited only to the height of underpasses, bridges, power lines, and other established height restrictions. The carrier is required to contact affected public utilities when the height of the vehicle with load exceeds 16 feet 0 inches. At the discretion of the permit-issuing authority, a written verification may be required from the affected utility.

d. *Weight.* Information contained in rule 761—511.17(321,321E).

e. *Distance.* Limited at the discretion of the permit-issuing authority. The following factors will be considered:

(1) Road conditions.

(2) Road width.

(3) Traffic volume.
(4) Weather conditions.
(5) Roadside obstructions, including bridges, signs and overhead obstructions.

511.13(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.9 and 321E.15.

761—511.14(321,321E) Annual raw forest products permits. Annual raw forest products permits are issued for vehicles transporting divisible loads of raw forest products when the weight exceeds statutory limits. Travel is not allowed on the interstate. The owner or operator shall select a route using the vertical clearance map, bridge embargo map, pavement restrictions map, and construction and travel restrictions map provided by the department. The owner or operator must contact the appropriate local authority for route approval to use this permit on county roads or city streets. Detour and road embargo information may be found online at: www.511ia.org. Routing is subject to embargoed bridges and roads and posted speed limits. Annual raw forest products permits are issued for the following:

511.14(1) Vehicles with divisible loads of raw forest products provided the following are not exceeded:

a. *Width.* Statutory: 8 feet 6 inches.
b. *Length.* Limited to the maximum dimensions in Iowa Code section 321.457.
c. *Height.* Statutory: 13 feet 6 inches.
d. *Weight.* Information contained in rule 761—511.17(321,321E).
e. *Distance.* Unlimited.

511.14(2) Reserved.

This rule is intended to implement Iowa Code sections 321.463, 321E.2, 321E.3, 321E.15 and 321E.26.

761—511.15(29C,321,321E) Emergency interstate permit. Emergency interstate permits are issued for vehicles transporting divisible loads of relief supplies when the weight exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour, and road embargo information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf. The owner or operator must contact the appropriate local authority for route approval to determine if additional permits are necessary for county roads or city streets. Emergency interstate permits are issued for the following:

511.15(1) Vehicles with divisible loads of relief supplies, which may exceed the weight limits established under Iowa Code section 321.463 on the interstate highway system, provided the following are not exceeded:

a. *Width.* Statutory: 8 feet 6 inches including appurtenances.
b. *Length.* Limited to the maximum dimensions in Iowa Code section 321.457.
c. *Height.* Statutory: 13 feet 6 inches.
d. *Weight.* Information contained in rule 761—511.17(321,321E).
e. *Distance.* Movement is allowed for unlimited distance on the interstate for 30 days not to exceed the expiration of the applicable governor's proclamation issued in conjunction with the applicable declaration under the Stafford Act, or expiration of the applicable declaration under the Stafford Act, whichever expires sooner. In the event that more than one proclamation issued under Iowa Code section 29C.6 is in effect, only the proclamation issued in conjunction with the same event that caused the major disaster declaration under the Stafford Act governs the expiration date. Separate permits may be required for roads other than the interstate unless the governor, under the authority in

Iowa Code section 29C.6, suspends applicable permitting provisions under proclamation for the same event.

511.15(2) Reserved.

This rule is intended to implement Iowa Code sections 29C.6, 321.457, 321.463, 321E.15 and 321E.29B.

761—511.16(321,321E) Annual fluid milk products permits. Annual fluid milk products permits are issued for indivisible loads of fluid milk products for travel when the weight of the vehicle or load exceeds statutory limits. Routing is subject to embargoed bridges and roads and posted speed limits. The owner or operator shall select a route using the vertical clearance map and road construction and travel restrictions map provided by the department. Route, detour and road embargo for fluid milk products information may be found online at www.511ia.org or the department's website for the embargo bridge maps at www.iowadot.gov/mvd/motorcarriers/bridgemap.pdf. Annual fluid milk products permits are issued for the following:

511.16(1) Vehicles with indivisible loads of fluid milk products provided the following are not exceeded:

a. Width. Statutory: 8 feet 6 inches including appurtenances.

b. Length. Statutory: 75 feet 0 inches overall.

c. Height. Statutory: 13 feet 6 inches.

d. Weight. Information contained in rule 761—511.17(321,321E).

e. Distance. Movement is allowed for unlimited distance on the primary road system, including the interstate, provided the vehicle is transporting fluid milk products to or from a milk plant, receiving station, or transfer station; routing through the motor vehicle division is not required.

511.16(2) Reserved.

This rule is intended to implement Iowa Code sections 321.454, 321.456, 321.457, 321.463, 321E.2, 321E.3, 321E.8, 321E.10, 321E.15 and 321E.29A.

761—511.17(321,321E) Maximum axle weights and maximum gross weights for vehicles and loads moved under permit.

511.17(1) *Annual oversize, annual all-systems oversize, and annual all-systems overweight permits.*

a. For movement under an annual oversize or annual all-systems oversize permit, the axle weight and combined gross weight cannot exceed the limits found in Iowa Code section 321.463(3).

b. For movement under an all-systems overweight permit, the axle weight cannot exceed the limits found in Iowa Code sections 321.463(3) and 321E.8. The combined gross weight cannot exceed the gross weight authorized under Iowa Code section 321E.8(2).

511.17(2) *Annual oversize/overweight permits or annual raw forest products permits.* For movement under an annual oversize/overweight permit or an annual raw forest products permit, the gross weight on any axle cannot exceed 20,000 pounds, with a maximum of 156,000 pounds total gross weight.

511.17(3) *Multitrip permits.* For movement under a multitrip permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 156,000 pounds total gross weight.

511.17(4) *Single-trip permits.*

a. For movement under a single-trip permit, the gross weight on any axle cannot exceed 20,000 pounds unless authorized under Iowa Code section 321E.9(2).

b. If the combined gross weight exceeds 100,000 pounds, a single-trip permit may be issued for the movement only if the permit-issuing authority determines that it would not cause undue damage to the road and is in the best interest of the public.

c. Cranes may have a maximum of 24,000 pounds per axle for movement under a single-trip permit. Routes must be reviewed by the permit-issuing authority prior to issuance.

511.17(5) *Emergency interstate permits.*

a. For movement under this permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 90,000 pounds total gross weight.

b. The maximum weight on any single axle cannot exceed by more than 12.5 percent the maximum axle weight limit in the nonprimary highway maximum gross weight table in Iowa Code section 321.463(6)*"b"* and must comply with posted limits on roads and bridges.

511.17(6) *Annual fluid milk products permits.* For movement under an annual fluid milk products permit, the gross weight on any axle cannot exceed 20,000 pounds with a maximum of 96,000 pounds total gross weight.

511.17(7) *Annual small crane permit.* For movement under an annual small crane permit, the gross weight on any axle cannot exceed 24,000 pounds with a maximum of 80,000 pounds total gross weight.

511.17(8) *Special mobile equipment.* Special mobile equipment may have a gross weight of 36,000 pounds on any single axle equipped with minimum size 26.5-inch by 25-inch flotation pneumatic tires and a maximum gross weight of 20,000 pounds on any single axle equipped with minimum size 18-inch by 25-inch flotation pneumatic tires, provided that the total gross weight of the vehicle or a combination of vehicles does not exceed a maximum of 80,000 pounds for movement under an annual oversize or all-systems oversize permit and 126,000 pounds for movement under a single-trip, multitrip or annual oversize/overweight permit.

For tire sizes and weights allowed between the maximum and minimum indicated, the following formula shall apply: Axle weight = 20,000 pounds + (tire width - 18) × 1,882 pounds.

511.17(9) *Permitted tandem axle weights.*

a. Vehicles operating under an annual oversize permit, annual oversize/overweight permit, annual raw forest products permit, single-trip permit, or multitrip permit may have a gross weight not to exceed 46,000 pounds on a single-tandem axle of the truck tractor and a gross weight not to exceed 46,000 pounds on a single-tandem axle of the trailer or semitrailer if each axle of each tandem group has at least four tires.

b. The maximum weight of any single axle within a permitted tandem axle group is 24,000 pounds.

c. A permitted tandem axle cannot be a part of a larger group of axles whose centers are greater than 96 inches apart.

This rule is intended to implement Iowa Code sections 321.463, 321E.7, 321E.8, 321E.9, 321E.9A, 321E.15, 321E.26, 321E.29B and 321E.32.

761—511.18(321,321E) Movement of vehicles with divisible loads exceeding statutory size or weight limits.

511.18(1) Vehicles with divisible loads exceeding statutory size or weight limits may be moved under a single-trip permit if the permit-issuing authority determines that a special or emergency situation warrants its issuance.

511.18(2) At the discretion of the permit-issuing authority, the combined gross weight may exceed the statutory weight, but the axle weights shall be subject to rule 761—511.17(321,321E).

511.18(3) Movement is subject to the routes established by the permit-issuing authority.

This rule is intended to implement Iowa Code sections 321.463, 321E.15 and 321E.29.

761—511.19(321,321E) Towing units. Only a truck or truck tractor with dual wheels and with a gross vehicle weight rating of at least 10,000 pounds is an acceptable towing unit for towing mobile homes or loads exceeding 10,000 pounds.

This rule is intended to implement Iowa Code sections 321.457 and 321E.15.

761—511.20(321E) Escorting.

511.20(1) *Escort qualifications.* To qualify as an escort or an escorting vehicle, the following requirements apply:

a. The escort is a person aged 18 or over who possesses a valid driver's license that allows driving unaccompanied and who carries proof of public liability insurance in the amounts of $100,000/$200,000/$50,000.

b. The escorting vehicle is a midsize automobile or motor truck with sufficient mobility to be able to assist in an emergency and designed to afford clear and unobstructed vision both front and rear. The escorting vehicle cannot be used to tow a trailer while performing escorting duties. In questionable cases, the permit-issuing authority is authorized to determine if a vehicle meets these conditions.

c. The escorting vehicle has a flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning. While escorting a permit load, the light is mounted on top of the escort vehicle and is burning. Additional escort vehicle markings may be approved or required by the permit-issuing authority.

d. An 18-inch by 18-inch red or orange fluorescent flag is mounted on each corner of the front bumper of the escorting vehicle.

e. The escort remains a distance of approximately 300 feet in front or to the rear of the load. However, when traveling within the corporate limits of a city, the escort maintains a reasonable and proper distance consistent with existing traffic conditions.

f. A separate escort accompanies each load hauled under escort.

g. The escort obeys all traffic laws and provisions of the oversize permit for the load.

h. The escort shall not assume responsibility for stopping traffic. An on-duty peace officer, as defined in Iowa Code section 321.1, shall be contacted to provide any necessary traffic control.

i. Immediately prior to an escorting trip, the escort determines that the escorting vehicle is in a safe operational condition and that the dimensions of the vehicle and load are in compliance with the permit issued.

j. A pole used for measuring vertical clearances is mounted on the front escorting vehicle. The escort is required to measure all vertical clearances whenever the height of the permitted vehicle exceeds 14 feet 6 inches up to and including 20 feet.

511.20(2) *Minimum escort and warning device requirements.* The following chart explains the minimum escort and warning devices required for vehicles operating under permit.

Minimum Warning Devices and Escort Requirements

For Vehicles Operating Under Permit

	Flags/Signs	Lights	Escorts	
			4-Lane	2-Lane
Length				
75′1″ up to and including 85′	yes	not required	not required	not required
Over 85′ up to and including 120′	yes	yes	not required	not required
Over 120′	yes	not required	rear	rear
Projections				
Front: over 25′	not required	yes	not required	not required
Rear: over 4′ up to and including 10′	flags only	not required	not required	not required
Rear: over 10′	flags only	yes	not required	not required
Height				
Over 14′6″ up to and including 20′	yes	not required	front with a height pole	front with a height pole
Weight				
Over 80,000 lbs	not required	not required	not required	not required
Width				
Over 8′6″ up to 12′0″	yes	not required	not required	not required
Over 12′0″ up to and including 14′6″	yes	not required	rear *	front *
Over 14′6″ up to and including 16′6″	yes	not required	rear *	front

Over 16′6″ up to and including 18′	yes	not required	rear	front

*In lieu of an escort, a carrier can display an amber light or strobe light on the power unit and on the rear extremity of the vehicle or load.

yes = required

511.20(3) *Flags, lights and signs.* The following criteria apply to the required flags, signs and lights on an escorting vehicle:

a. Red or orange fluorescent flags at least 18″ square are mounted as follows: one flag at each front corner of the towing unit, one flag at each rear corner of the load, and a flag at any additional protrusion in the width of the load.

b. A sign reading "Oversize Load," which is at least 18″ high by 7′ long with a minimum of 10″ black letters, with a 1½″ stroke, on a yellow background is used. The sign is mounted on the front bumper and on the rear of the load unless a mobile home or factory-built structure, in which case, the rear sign is mounted at least 7′ above the highway surface, measuring from the bottom of the sign.

c. A flashing or strobe amber light that is visible for at least 500 feet and provides 360° warning is mounted on the towing unit and is visible from front and rear. More than one light may be necessary.

d. The flags, lights and signs are removed or covered when the vehicle is within legal dimensions.

511.20(4) *Additional escorts.* The permit-issuing authority may require additional escorts when deemed necessary.

This rule is intended to implement Iowa Code sections 321E.8, 321E.14, 321E.15, 321E.24 and 321E.34.

761—511.21(321,321E) Permit violations. Permit violations are to be reported to the permit-issuing authority by the arresting officer and the permit holder. If a permit holder is found to have willfully violated permit provisions, the motor vehicle division may, after notice and hearing, suspend, modify or revoke the permit privileges of the permit holder consistent with Iowa Code section 321E.20. If the permit that is suspended, modified, or revoked is an emergency interstate permit that is issued for a fleet operating under the permit holder's interstate or intrastate motor carrier number, the department may issue emergency interstate permits to individual vehicles operating under the interstate or intrastate motor carrier number.

This rule is intended to implement Iowa Code sections 321.492, 321E.15, 321E.16, 321E.20 and 321E.29B.

761—511.22(321) Movement of combination vehicles on economic export corridors.

511.22(1) *Designation of economic export corridors.*

a. The department may in its discretion establish economic export corridors for the transportation of goods or products manufactured in Iowa to or through the state of South Dakota and for the return of unladen semitrailers or unladen full trailers used for the transportation of those goods or products. An economic export corridor does not include any segment of the interstate system or any part of the national network of highways identified pursuant to 23 CFR Part 658, effective April 1, 2024. However, if appropriate, the department may petition the Federal Highway Administration to remove a road or road segment from the national network of highways for the purpose of including it in an economic export corridor.

b. The department may initiate designation of economic export corridors, or a request for economic export corridor designation may be submitted to the department by an interested party. If a proposed economic export corridor includes any roads or road segments that are under the jurisdiction of a city or a county, a resolution from all relevant local jurisdictions is to be submitted to the department indicating jurisdiction support for economic export corridor designation. The resolution is to include a description of the proposed economic export corridor under local jurisdiction.

c. The department will exercise due regard for the safety of the traveling public and the protection of the highway surfaces and structures when establishing an economic export corridor. Factors to be considered include ability of the proposed economic export corridor to safely accommodate combinations of vehicles described in subrule 511.22(2), taking into account physical configurations and restrictions and traffic demands and capacity, as well as connection to markets that will benefit from the established economic export corridor.

d. The department will post established economic export corridors on the department's website.

511.22(2) *Combination vehicles that may be operated on an economic export corridor.*

a. In addition to combinations of vehicles lawful for operation on roads or road segments not designated as an economic export corridor, the following combinations of vehicles may be operated on an economic export corridor designated under subrule 511.22(1) if the combinations of vehicles meet the requirements in paragraph 511.22(2)*"b"*:

(1) A truck tractor-semitrailer-semitrailer converted to a full trailer by use of a dolly equipped with a fifth wheel that is considered a part of the trailer for all purposes, and not a separate unit.

(2) A truck tractor-semitrailer-full trailer.

(3) A truck tractor-semitrailer-semitrailer combination, where the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

b. The combination of vehicles shall meet all of the following requirements:

(1) The length of the combination of vehicles, excluding the length of the truck tractor, does not exceed 81½ feet.

(2) The length of either semitrailer or full trailer does not exceed 45 feet.

(3) The weight of the second semitrailer or full trailer does not exceed the weight of the first semitrailer by more than 3,000 pounds.

(4) The gross weight of the combination of vehicles does not exceed 80,000 pounds and the combination of vehicles does not exceed the gross axle weight limits of Iowa Code section 321.463(2).

(5) The load on each semitrailer or full trailer in the combination is an indivisible load. For the purpose of issuing permits for height or width under Iowa Code chapter 321E, the combination of vehicles will be considered an indivisible load so long as the load on each semitrailer or full trailer in the combination remains an indivisible load.

c. The length of the frame extension is not included when determining the overall length of the first semitrailer in a truck tractor-semitrailer-semitrailer combination in which the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer.

d. For purposes of this subrule, "full trailer" means the same as defined in 49 CFR Section 390.5, effective October 1, 2024.

This rule is intended to implement Iowa Code section 321.457(2)*"n."*

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 524
"For-Hire Intrastate Motor Carrier Authority"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 325A.3A, 325A.7A, 325A.10 and 325A.13

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.515 and 321.519 and chapter 325A

Public Hearing

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

February 28, 2025 9 to 9:30 a.m.	Microsoft Teams Or dial: 515.817.6093 Conference ID: 262 987 526

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to comply with Iowa Code chapter 325A by outlining the application and eligibility requirements to obtain a for-hire intrastate motor carrier permit or certificate from the Department. A Department-issued motor carrier permit or certificate is required before a motor carrier may begin operations in Iowa.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs or fees associated with this chapter beyond what is required by the underlying statute. Rather, the purpose of the rules is to establish the eligibility requirements and application process for persons seeking motor carrier permits and certificates.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons seeking to obtain a motor carrier permit or certificate will benefit from this chapter by knowing the eligibility criteria and application process.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no additional implementation or enforcement costs in the proposed chapter that were not already required as a result of the underlying statutes. The statute requires the Department to issue motor carrier permits and certificates to qualified applicants.

- **Qualitative description of impact:**

There are no anticipated effects on state revenues beyond the underlying statute.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs resulting from the proposed chapter that were not already required as a result of the underlying statute. The statute requires the Department to issue motor carrier permits and certificates to qualified applicants.

- **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond the underlying statute.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The benefit of the proposed rules is consistency and transparency in the processes and requirements for obtaining a motor carrier permit or certificate in Iowa.

The cost of inaction is the inability for qualified applicants to understand quickly and efficiently what is required to obtain and maintain a motor carrier permit or certificate in Iowa.

There is no benefit of inaction.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to issue motor carrier permits and certificates to qualified applicants.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all persons seeking a motor carrier permit or certificate under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 524 and adopt the following **new** chapter in lieu thereof:

CHAPTER 524
FOR-HIRE INTRASTATE MOTOR CARRIER AUTHORITY

761—524.1(325A) Purpose and applicability.

524.1(1) This chapter establishes requirements concerning for-hire intrastate motor carriers as authorized by Iowa Code chapter 325A.

524.1(2) This chapter applies to motor carriers of household goods, bulk liquid commodities, all other property, and passengers being transported for hire on any highway of this state other than a transportation network company or transportation network company driver as both are defined in Iowa Code section 321N.1 and provided for in 761—Chapter 540.

761—524.2(325A) General information.

524.2(1) *Information and location.* Applications, forms and information on motor carrier permits and motor carrier certificates are available by mail from the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at 515.237.3268; by facsimile at 515.237.3225; or by email at omcs@iowadot.us.

524.2(2) *Waiver of rules.* In accordance with 761—Chapter 11, the director of transportation or the director's designee (director) may, in response to a petition, waive provisions of this chapter. A waiver will not be granted unless the director finds that special or emergency circumstances exist.

"Special or emergency circumstances" means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as but not limited to pollution of natural resources, a potential fire or an explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazards to the safety of the traveling public or undue damage to private or public property.

524.2(3) *Complaints.* Complaints against motor carriers pertaining to the provisions of this chapter can be submitted in writing to the motor vehicle division.

761—524.3(325A) Applications and supporting documents.

524.3(1) *Application and fee.* Application for a motor carrier permit or motor carrier certificate shall be made to the motor vehicle division on Form 441052, including the required safety self-certification, and accompanied by the statutory fee. Acceptable payment methods include credit card, cash, and check or money order made payable to the Iowa Department of Transportation.

524.3(2) *Supporting documents.* The following documents must accompany the motor carrier permit or motor carrier certificate application:

a. Proof of insurance.
b. A U.S. DOT number if required by the Federal Motor Carrier Safety Administration.
c. Financial statement if required by rule 761—524.10(325A).
d. Tariff, only for motor carriers of household goods.

e. All applicable documents identified in 761—subrule 380.4(2) and any other documentation, if required by the department, necessary to assess the operational capabilities of any driverless-capable vehicles the motor carrier intends to operate, including for the purpose of determining whether to impose operational restrictions as authorized under rule 761—400.18(307,321).

761—524.4(325A) Issuance of motor carrier permit or motor carrier certificate. When all requirements are met, the department will issue the motor carrier permit or certificate, a copy of which shall be carried in each motor vehicle at all times. The copy may be in either a physical or an electronic format and shall be available for display to any peace officer upon request.

761—524.5(325A) Duplicate motor carrier permit or motor carrier certificate. A motor carrier seeking a duplicate motor carrier permit or motor carrier certificate shall send a written request to the motor vehicle division and include the carrier name, the permit number, certificate number, or U.S. DOT number, and the statutory fee.

761—524.6(325A) Amendment to a motor carrier permit or motor carrier certificate.

524.6(1) *Update to a motor carrier permit.* A motor carrier seeking to change the commodities being transported under a permit shall submit an updated application to the motor vehicle division, including the permit number and statutory fee for a duplicate permit. Transporting of commodities not listed on the permit is not authorized until a new permit or temporary permit has been issued and is carried in the vehicle.

524.6(2) *Change of name or address for a motor carrier permit or certificate.* A motor carrier seeking to change the name or address shall submit an updated application to the motor vehicle division within 30 days after the change and include the permit or certificate number, old name or address, new name or address and the statutory fee.

761—524.7(325A) Insurance.

524.7(1) *Insurance.* Each motor carrier shall do the following:

a. At all times maintain on file with the department the effective certificate(s) of insurance or a surety bond on a form prescribed by the department.

b. Ensure the insurance or the surety bond is written for a period of one year or more.

c. Provide the department written notice 30 days prior to the cancellation of the insurance or the surety bond.

d. Submit all certificates of insurance to the department electronically in a format approved by the department.

524.7(2) *Self-insurance.* Except as otherwise provided in subrule 524.7(1), the department may allow a carrier to self-insure in lieu of maintaining insurance required under subrule 524.7(1) if the following criteria is met:

a. The intrastate carrier also operates interstate and has been approved by a federal agency to self-insure.

b. The carrier submits a written request to self-insure to the motor vehicle division that includes a copy of the federal agency's approval to self-insure and copies of any information required by that federal agency in approving the request to self-insure.

c. The motor carrier agrees to immediately notify the department if there is any change in the status of the self-insurance for interstate operation.

761—524.8(325A) Self-insurance for motor carriers of passengers.

524.8(1) *Applications for self-insurance.* A motor carrier of passengers with more than 25 motor vehicles may request self-insurance by submitting a written request to the motor vehicle division, including a copy of the carrier's most recent audited financial statement and a vehicle list.

524.8(2) *Review by the department.* The department may request additional information to evaluate the request to self-insure. A request to self-insure will be denied and an existing approval to

self-insure will be suspended if the motor carrier fails to meet the self-insurance standard under 49 CFR 387.33T effective as of October 1, 2024. An approval to self-insure is continuous unless canceled. The motor carrier shall annually file audited financial statements with the motor vehicle division within 60 days after the end of the motor carrier's fiscal year.

524.8(3) *Cancellation of self-insurance approval.* The department, upon five days' notice prior to any hearing to cancel approval, may cancel approval of a carrier to self-insure if the carrier fails to file an audited financial statement as required under subrule 524.8(2) or for other reasonable grounds, including but not limited to the failure of the carrier to pay a final judgment within 30 days.

761—524.9(325A) Safety regulations. All motor carriers shall follow the applicable safety regulations in 661—Chapter 22 concerning operation, maintenance and inspection of vehicles.

761—524.10(325A) Financial statement. An application by a motor carrier of bulk liquid commodities (nondairy) or regular-route passengers must include, on a form prescribed by the department, a statement signed by an authorized agent of a lending institution or a certified public accountant attesting to the financial capability of that carrier.

761—524.11(325A) Safety education seminar.

524.11(1) *Requirement.* Except as provided in subrule 524.11(4), persons responsible for the safety records and driver training of applicable motor carriers are required to complete the safety education seminar under Iowa Code section 325A.3(5). Failure to attend an approved safety education seminar within the required time frame will result in suspension of the motor carrier permit or certificate.

524.11(2) *Availability.* The department provides an approved safety education seminar periodically. Information on how to access the seminar is available from the Motor Vehicle Division in person at 6310 SE Convenience Boulevard, Ankeny, Iowa; by telephone at 515.237.3268; or by email at omcs@iowadot.us.

524.11(3) *Third-party safety education seminar approval.* The motor vehicle division may approve individuals outside the department to conduct safety education seminars. Only the department is authorized to approve the course curriculum. At a minimum, the safety course curriculum is to include the following information:

a. Commercial driver's license regulations.

b. A general overview of the U.S. DOT's motor carrier safety regulations and hazardous materials regulations adopted annually by the department of public safety.

c. Iowa Code sections 321.449 and 321.450 and all associated administrative rules.

d. Iowa Code section 321.463 and all associated administrative rules.

e. Out-of-service criteria.

f. A general overview of the U.S. DOT's Emergency Response Guidebook.

524.11(4) *Exemption.* Passenger carriers with vehicles not meeting the definition of a commercial vehicle as defined in Iowa Code section 321.1 are exempt from attending the safety education seminar and paying the seminar fee. A motor carrier certificate issued for such a carrier contains the following statement: "limited to noncommercial vehicles only." If a motor carrier wishes to start operating vehicles that meet the definition of a commercial motor vehicle, the motor carrier must update its authority with the motor vehicle division. Upon paying the seminar fee and attending the seminar within six months of updating the certificate, the department will issue a new motor carrier certificate removing the limitation.

761—524.12(325A) Lease of a vehicle.

524.12(1) *Lease defined.* "Lease," for the purpose of these rules, means a written document providing for the exclusive possession, control and responsibility over the operation of a vehicle by the lessee for a specific period of time as if the lessee were the owner. A copy of the lease must be

carried in the leased vehicle at all times. No motor carrier may have more than one lease covering a specific vehicle in effect at a given time.

524.12(2) *Lease of a vehicle to a shipper or a receiver.* No motor carrier shall lease a vehicle with or without a driver to a shipper or a receiver.

524.12(3) *Marking of a motor vehicle.* Each lessee shall properly identify each motor vehicle during the period of the lease as specified in rule 661—22.9(325A).

524.12(4) *Lease requirements.* Any lease of a vehicle by any motor carrier except under the following conditions is prohibited:

a. Every lease must be in writing and signed by the parties or their regular employees or agents duly authorized to act for them.

b. Every lease shall specify the time that the lease begins and the time or circumstances on which it ends.

761—524.13(325A) Tariffs.

524.13(1) *Requirements.* All motor carriers of household goods shall maintain on file with the motor vehicle division a tariff stating the rates and charges that apply for the services performed under the permit.

524.13(2) *Printing.* All tariffs and amendments or supplements must be in book, pamphlet or loose-leaf form and be plainly printed or reproduced. No alteration in writing or erasure is to be made in any tariff or supplement.

524.13(3) *Filing date.* All changes to tariffs and supplements are to be filed with the motor vehicle division at least seven days prior to the effective date. Tariffs or supplements issued in connection with applications for motor carriers of household goods may become effective on the date the permits are issued.

524.13(4) *Copy to department.* To file a tariff with the motor vehicle division, motor carriers of household goods or their agents are to submit a transmittal letter listing all the enclosed tariffs and include one copy of each tariff, supplement or revised page.

524.13(5) *Title page.* The title page of every tariff and supplement shall meet the following requirements:

a. Each tariff shall be numbered in the upper right-hand corner, beginning with number 1 and shown as follows: Ia. DOT No. …

b. When a tariff is issued canceling a tariff previously filed, the Ia. DOT number of the canceled tariff shall be in the right-hand corner under the Ia. DOT number of the new tariff.

c. Supplements or changes to a tariff shall be numbered beginning with number 1 in the upper right-hand corner along with the number of any previous supplements canceled or changed by the supplement.

d. The name of each motor carrier of household goods must be the same as it appears on the permit. If the motor carrier of household goods is not a corporation and uses a trade name, the name of the individual or partners needs to precede the trade name.

e. Each tariff shall include a brief description of the territory or points from which and to which the tariff applies.

f. Each tariff shall contain the issue and effective dates.

g. Each tariff shall include the name, title and street address of the motor carrier of household goods or the agent by whom the tariff is issued.

524.13(6) *Contents of tariff.* Each tariff shall include the following:

a. A table of contents that is arranged alphabetically.

b. A complete index of all commodities, including the page number. However, no index or table of contents is needed in tariffs of less than five pages or if the rates are alphabetically arranged by commodities.

c. An explanation of all abbreviations, symbols and reference marks used.

d. All rates in the tariff explicitly stated in cents or in dollars and cents per one hundred pounds, per mile, per hour, per ton or two thousand pounds, per truck load (of stated amount) or other definable measure. Where rates are stated in amounts per package or bundle, definite specifications of the packages or bundles must be shown and ambiguous terms, rates, descriptions or plans for determining charges will not be accepted.

524.13(7) *Duplication of rates.* Motor carriers of household goods or their agents shall not publish duplicate or conflicting rates.

524.13(8) *Tariff changes.* All rates and charges that have been filed with the motor vehicle division must be allowed to become effective and remain in effect for a period of at least seven days before being changed, canceled or withdrawn. All tariffs, supplements and revised pages shall indicate changes from the previous tariff. Changes may be indicated by providing a summary or by use of the following symbols:

(R) to denote reductions

(A) to denote increases

(C) to denote changes, the result of which is neither an increase nor a reduction.

524.13(9) *Posting regulations.* Each motor carrier of household goods must post and file at its principal place of business all of its tariffs and supplements. All tariffs must be kept available for public inspection.

524.13(10) *Application for special permission.* When making application for permission to establish rates, charges, or rules of the tariff on less than the statutory seven days' notice, motor carriers of household goods and their agents shall use the form prescribed by the department or other form containing all of the required information.

524.13(11) *Powers of attorney.* An agent or other motor carrier of household goods has the authority to file tariffs and supplements on behalf of a motor carrier if the motor carrier completes a power of attorney granting the agent or other motor carrier authority to act on the motor carrier's behalf, subject to the following requirements:

a. The original power of attorney is on file with the motor vehicle division and a copy has been sent to the agent or other motor carrier of household goods who was granted the authority to act by the power of attorney.

b. The motor carrier notifies the department in writing whenever the motor carrier wants to cancel the authority granted to an agent or other motor carrier of household goods by power of attorney. The notification may occur in writing to the department and state the power of attorney is revoked with 60 days' notice. For good cause, the department may authorize less than 60 days' notice. Copies of the notice must also be mailed to all interested parties by the motor carrier.

524.13(12) *Nonconforming tariffs.* The motor vehicle division will review tariffs that do not conform with subrules 524.13(1) through 524.13(11) to determine if the tariffs contain the necessary information and are acceptable. Tariffs that are unacceptable will be returned to the motor carrier with an explanation.

761—524.14(325A) Denial, suspension, revocation, appeal and reinstatement.

524.14(1) *Denial.* The department will deny an application if the applicant fails to meet the criteria for issuance of a permit or certificate under Iowa Code chapter 325A or this chapter.

524.14(2) *Suspension or revocation.* The department may suspend or revoke a motor carrier permit or certificate for a violation of Iowa Code chapter 325A or this chapter. The suspension or revocation shall continue until the motor carrier is no longer in violation.

524.14(3) *Appeal.* A person whose application for a motor carrier permit or certificate has been denied for a reason other than noncompliance with insurance requirements or whose motor carrier permit or certificate has been suspended or revoked for a reason other than noncompliance with insurance requirements may contest the decision in accordance with Iowa Code chapter 17A and 761—Chapter 13 by submitting an appeal request in writing to the director of the motor vehicle division. To be considered timely, the request must be submitted within 20 days after the date of the

notice of suspension, revocation or denial and include, as applicable, the motor carrier's name, permit or certificate number; complete address; and telephone number.

524.14(4) *Reinstatement.* Once the suspension or revocation is ended and the statutory fee is paid, the department will issue a new permit or certificate.

These rules are intended to implement Iowa Code sections 321.515 and 321.519 and chapter 325A.

Regulatory Analysis

Notice of Intended Action to be published: 761—Chapter 529
"For-Hire Interstate Motor Carrier Authority"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 307.12(1)"j"

State or federal law(s) implemented by the rulemaking: Iowa Code section 307.27(8) and chapter 327B

Public Hearing

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

February 28, 2025 11 to 11:30 a.m.	Microsoft Teams Or dial: 515.817.6093 Conference ID: 622 454 376

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Sara Siedsma
6310 SE Convenience Boulevard
Ankeny, Iowa 50021
Email: sara.siedsma@iowadot.us

Purpose and Summary

The purpose of the proposed chapter is to comply with Iowa Code section 307.27(8) and chapter 327B. Iowa Code section 307.27(8) requires the Department to administer the registration of interstate authority of motor carriers pursuant to federal regulations. Iowa Code chapter 327B requires motor carriers authorized by the U.S. Department of Transportation to perform an interstate transportation service for compensation to register with the Department.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

There are no costs or fees associated with this chapter beyond what is required by the underlying statutes.

- **Classes of persons that will benefit from the proposed rulemaking:**

Persons seeking to register interstate motor carrier authority with the Department will benefit from these rules by knowing the methods to submit registration.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

There are no additional quantitative impacts that were not already anticipated as a result of the underlying statutes, which require the Department to administer registration of interstate authority of motor carriers and provide the methods for submitting registrations to the Department.

- **Qualitative description of impact:**

The result of reorganizing, streamlining, and reducing redundancy in the proposed chapter will create a positive impact by producing a more user-friendly version that contains information the public relies on for understanding registration of interstate authority of motor carriers.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are no additional implementation or enforcement costs resulting from the proposed rules that were not already required as a result of the underlying statutes.

- **Anticipated effect on state revenues:**

There are no anticipated effects on state revenues beyond the underlying statutes.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

The benefit of the proposed chapter is consistency and transparency on the administration of registration of interstate authority by the Department.

The cost of inaction is the inability for the Department to administer registration of interstate authority, which would prevent motor carriers from lawfully operating on Iowa roadways.

There is no benefit of inaction.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

There are no less costly or less intrusive methods to achieve the purpose of the proposed rules.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to administer registration of interstate authority.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to all persons registering interstate authority under the Iowa Code.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 529 and adopt the following **new** chapter in lieu thereof:

CHAPTER 529
FOR-HIRE INTERSTATE MOTOR CARRIER AUTHORITY

761—529.1(307,327B) Motor carrier regulations. The department adopts the Code of Federal Regulations, 49 CFR Parts 365 through 368 and 370 through 379, dated October 1, 2024, for regulating interstate for-hire carriers. Copies of this publication are available from the state law library or at www.fmcsa.dot.gov.

761—529.2(307,327B) Registering interstate authority in Iowa. Authorized methods to submit registration for interstate exempt and nonexempt authority to the department include by mail to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 10382, Des Moines, Iowa 50306-0382; delivery in person to 6310 SE Convenience Boulevard, Ankeny, Iowa; or by facsimile to 515.237.3257.

761—529.3(307,327B) Waiver of rules. In accordance with 761—Chapter 11, the director of transportation or the director's designee (director) may, in response to a petition, waive provisions of this chapter. A waiver will not be granted unless the director finds that special or emergency circumstances exist.

"Special or emergency circumstances" means one or more of the following:

1. Circumstances where the movement is necessary to cooperate with cities, counties, other state agencies or other states in response to a national or other disaster.
2. Circumstances where the movement is necessary to cooperate with national defense officials.
3. Circumstances where the movement is necessary to cooperate with public or private utilities in order to maintain their public services.
4. Circumstances where the movement is essential to ensure safety and protection of any person or property due to events such as but not limited to pollution of natural resources, a potential fire or explosion.
5. Circumstances where weather or transportation problems create an undue hardship for citizens of the state of Iowa.
6. Circumstances where movement involves emergency-type vehicles.
7. Uncommon or extraordinary circumstances where the movement is essential to the existence of an Iowa business and the move may be accomplished without causing undue hazard to the safety of the traveling public or undue damage to private or public property.

These rules are intended to implement Iowa Code sections 307.12(1)*"j"* and 307.27 and chapter 327B.

ARC 8895C

HUMAN RIGHTS DEPARTMENT[421]

Amended Notice of Intended Action

Providing for a public hearing on rulemaking related to functions of division

The Notice of Intended Action published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8508C**, proposes to rescind Chapter 40, "Functions of Division," Iowa Administrative Code. In order to receive oral comments concerning **ARC 8508C**, the Department of Health and Human Services hereby gives notice that public hearings will be held as follows:

February 25, 2025 10:30 to 11 a.m.	Microsoft Teams Meeting ID: 293 791 757 499 Passcode: J89nS3mT
February 25, 2025 2:30 to 3 p.m.	Microsoft Teams Meeting ID: 231 190 332 126 Passcode: pT22DL3n

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

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

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 216A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

The purpose of the proposed rulemaking is to rescind a chapter that is no longer applicable due to the passage of 2024 Iowa Acts, Senate File 2385, which consolidated Iowa's boards and commissions.

The Department discovered that there was missing information regarding the public hearings, impacting the public's ability to provide oral comment. As such, the Department is holding another round of public hearings on the rulemaking.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rulemaking may be found in the preamble of **ARC 8508C**.

Review by Administrative Rules Review Committee

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

ARC 8896C

HUMAN RIGHTS DEPARTMENT[421]

Amended Notice of Intended Action

Providing for a public hearing on rulemaking related to hall of fame

The Notice of Intended Action published in the Iowa Administrative Bulletin on December 11, 2024, as **ARC 8522C**, proposes to rescind Chapter 41, "Hall of Fame," Iowa Administrative Code. In order to receive oral comments concerning **ARC 8522C**, the Department of Health and Human Services hereby gives notice that public hearings will be held as follows:

February 25, 2025 10:30 to 11 a.m.	Microsoft Teams Meeting ID: 293 791 757 499 Passcode: J89nS3mT
February 25, 2025 2:30 to 3 p.m.	Microsoft Teams Meeting ID: 231 190 332 126 Passcode: pT22DL3n

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

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

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code chapter 216A.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 2024 Iowa Acts, Senate File 2385.

Purpose and Summary

The purpose of the proposed rulemaking is to rescind a chapter that is no longer applicable due to the passage of 2024 Iowa Acts, Senate File 2385, which consolidated Iowa's boards and commissions.

The Department discovered the information regarding the public hearings on this rulemaking was missing, impacting the public's ability to provide comment. As such, the Department is holding another round of public hearings on the rulemaking.

Fiscal Impact, Jobs Impact, Waivers

Statements related to the fiscal impact, jobs impact, and waiver of this rulemaking may be found in the preamble of **ARC 8522C**.

Review by Administrative Rules Review Committee

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

ARC 8731C

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

Proposing rulemaking related to recision of chapters and providing an opportunity for public comment

The Department of Revenue hereby proposes to rescind Chapter 4, "Retail Alcohol Licenses—Beer Permits—Wine Permits," Chapter 5, "License and Permit Division," Chapter 8, "Transportation and Warehouse," Chapter 9, "Personal Importation of Alcoholic Liquor, Wine, and Beer," and Chapter 16, "Trade Practices," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 123.10, 123.49, and 123.186.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.18, 123.3, 123.4, 123.10, 123.22, 123.24, 123.30 through 123.31B, 123.33, 123.35, 123.38, 123.39, 123.45, 123.49, 123.50, 123.59, 123.92 through 123.94, 123.122, 123.127, 123.171, 123.175, 123.176, 123.183, and 123.186.

Purpose and Summary

Chapters 4, 5, 8, 9, and 16 are all designed for alcohol license, permit, and certificate of compliance holders to better understand requirements they must follow pertaining to their license or permit type. As part of the government reorganization pursuant to 2023 Iowa Acts, Senate File 514, the Department proposes to rescind the existing chapters under agency [185] and adopt them as new 701—Chapters 1000 through 1003 in separate proposed rulemakings herein (IAB 2/5/25).

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes to the proposed text have been made after publication of the Regulatory Analysis. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Alcoholic Beverages Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Madelyn Cutler
Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: madelyn.cutler@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 10 to 11 a.m.	Via video/conference call meet.google.com/cec-wnfw-kxv
February 25, 2025 2 to 3 p.m.	Via video/conference call meet.google.com/rxw-nuwh-sdj

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **185—Chapter 4**.

ITEM 2. Rescind and reserve **185—Chapter 5**.

ITEM 3. Rescind and reserve **185—Chapter 8**.

ITEM 4. Rescind and reserve **185—Chapter 9**.

ITEM 5. Rescind and reserve **185—Chapter 16**.

ARC 8730C

ALCOHOLIC BEVERAGES DIVISION[185]

Notice of Intended Action

Proposing rulemaking related to private wine sales and providing an opportunity for public comment

The Department of Revenue hereby proposes to rescind Chapter 14, "Private Wine Sales," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 123.10 and 123.180.

Purpose and Summary

This chapter describes the requirements needed for Class "A" wine permittees to engage in private wine sales with other licensees within the state. The purpose of this proposed rulemaking is to rescind Chapter 14 because it is outdated and obsolete.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on October 30, 2024. A public hearing was held on the following date(s):

- November 19, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes to the proposed text have been made after publication of the Regulatory Analysis. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Alcoholic Beverages Division for a waiver of the discretionary provisions, if any, pursuant to 185—Chapter 19.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Madelyn Cutler
Iowa Alcoholic Beverages Division
1918 SE Hulsizer Road
Ankeny, Iowa 50021
Email: madelyn.cutler@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 10 to 11 a.m.	Via video/conference call meet.google.com/cec-wnfw-kxv
February 25, 2025 2 to 3 p.m.	Via video/conference call meet.google.com/rxw-nuwh-sdj

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Rescind and reserve **185—Chapter 14**.

ARC 8864C

LABOR SERVICES DIVISION[875]

Notice of Intended Action

Proposing rulemaking related to general industry safety and health rules and providing an opportunity for public comment

The Labor Services Division hereby proposes to amend Chapter 10, "General Industry Safety and Health Rules," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 88.5.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, 29 CFR 1910.

Purpose and Summary

This rulemaking proposes an amendment that adopts by reference a mandatory federal rule relating to the classification and labeling of hazardous chemicals. The federal rule corrects typographical errors and makes technical changes to 89 Fed. Reg. 44144 (May 20, 2024), adopted in **ARC 8411C**, published November 27, 2024. In addition, the rulemaking proposes to add a reference to 54 Fed. Reg. 31765 (August 1, 1989), which was unintentionally omitted from adoption in **ARC 8411C**.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on December 25, 2024. A public hearing was held on the following date(s):

- January 14, 2025

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

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

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Division no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Mitchell Mahan
Labor Services Division
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.443.1051
Email: mitchell.mahan@dia.iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 9 to 9:15 a.m.	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa
February 26, 2025 9 to 9:15 a.m.	Lake Conference Room 6200 Park Avenue, Suite 100 Des Moines, Iowa

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Amend rule 875—10.4(88) as follows:

875—10.4(88) Adoption by reference. The rules beginning at 1910.20 and continuing through 1910, as adopted by the United States Secretary of Labor, shall be the rules for implementing Iowa Code chapter 88. This rule adopts the Federal Occupational Safety and Health Standards of 29 CFR, Chapter XVII, Part 1910, as published at 37 Fed. Reg. 22102 to 22324 (October 18, 1972) and as amended at:
37 Fed. Reg. 23719 (November 8, 1972)
37 Fed. Reg. 24749 (November 21, 1972)
38 Fed. Reg. 3599 (February 8, 1973)
38 Fed. Reg. 9079 (April 10, 1973)
38 Fed. Reg. 10932 (May 3, 1973)
38 Fed. Reg. 14373 (June 1, 1973)

38 Fed. Reg. 16223 (June 21, 1973)
38 Fed. Reg. 19030 (July 17, 1973)
38 Fed. Reg. 27048 (September 28, 1973)
38 Fed. Reg. 28035 (October 11, 1973)
38 Fed. Reg. 33397 (December 4, 1973)
39 Fed. Reg. 1437 (January 9, 1974)
39 Fed. Reg. 3760 (January 29, 1974)
39 Fed. Reg. 6110 (February 19, 1974)
39 Fed. Reg. 9958 (March 15, 1974)
39 Fed. Reg. 19468 (June 3, 1974)
39 Fed. Reg. 35896 (October 4, 1974)
39 Fed. Reg. 41846 (December 3, 1974)
39 Fed. Reg. 41848 (December 3, 1974)
40 Fed. Reg. 3982 (January 27, 1975)
40 Fed. Reg. 13439 (March 26, 1975)
40 Fed. Reg. 18446 (April 28, 1975)
40 Fed. Reg. 23072 (May 28, 1975)
40 Fed. Reg. 23743 (June 2, 1975)
40 Fed. Reg. 24522 (June 9, 1975)
40 Fed. Reg. 27369 (June 27, 1975)
40 Fed. Reg. 31598 (July 28, 1975)
41 Fed. Reg. 11504 (March 19, 1976)
41 Fed. Reg. 13352 (March 30, 1976)
41 Fed. Reg. 35184 (August 20, 1976)
41 Fed. Reg. 46784 (October 22, 1976)
41 Fed. Reg. 55703 (December 21, 1976)
42 Fed. Reg. 2956 (January 14, 1977)
42 Fed. Reg. 3304 (January 18, 1977)
42 Fed. Reg. 45544 (September 9, 1977)
42 Fed. Reg. 46540 (September 16, 1977)
42 Fed. Reg. 37668 (July 22, 1977)
43 Fed. Reg. 11527 (March 17, 1978)
43 Fed. Reg. 19624 (May 5, 1978)
43 Fed. Reg. 27394 (June 23, 1978)
43 Fed. Reg. 27434 (June 23, 1978)
43 Fed. Reg. 28472 (June 30, 1978)
43 Fed. Reg. 28473 (June 30, 1978)
43 Fed. Reg. 31330 (July 21, 1978)
43 Fed. Reg. 35032 (August 8, 1978)
43 Fed. Reg. 45809 (October 3, 1978)
43 Fed. Reg. 49744 (October 24, 1978)
43 Fed. Reg. 51759 (November 7, 1978)
43 Fed. Reg. 53007 (November 14, 1978)
43 Fed. Reg. 56893 (December 5, 1978)
43 Fed. Reg. 57602 (December 8, 1978)
44 Fed. Reg. 5447 (January 26, 1979)
44 Fed. Reg. 50338 (August 28, 1979)
44 Fed. Reg. 60981 (October 23, 1979)
44 Fed. Reg. 68827 (November 30, 1979)
45 Fed. Reg. 6713 (January 29, 1980)
45 Fed. Reg. 8594 (February 8, 1980)
45 Fed. Reg. 12417 (February 26, 1980)

45 Fed. Reg. 35277 (May 23, 1980)
45 Fed. Reg. 41634 (June 20, 1980)
45 Fed. Reg. 54333 (August 15, 1980)
45 Fed. Reg. 60703 (September 12, 1980)
46 Fed. Reg. 4056 (January 16, 1981)
46 Fed. Reg. 6288 (January 21, 1981)
46 Fed. Reg. 24557 (May 1, 1981)
46 Fed. Reg. 32022 (June 19, 1981)
46 Fed. Reg. 40185 (August 7, 1981)
46 Fed. Reg. 2632 (August 21, 1981)
46 Fed. Reg. 42632 (August 21, 1981)
46 Fed. Reg. 45333 (September 11, 1981)
46 Fed. Reg. 60775 (December 11, 1981)
47 Fed. Reg. 39161 (September 7, 1982)
47 Fed. Reg. 51117 (November 12, 1982)
47 Fed. Reg. 53365 (November 26, 1982)
48 Fed. Reg. 2768 (January 21, 1983)
48 Fed. Reg. 9641 (March 8, 1983)
48 Fed. Reg. 9776 (March 8, 1983)
48 Fed. Reg. 29687 (June 28, 1983)
49 Fed. Reg. 881 (January 6, 1984)
49 Fed. Reg. 4350 (February 3, 1984)
49 Fed. Reg. 5321 (February 10, 1984)
49 Fed. Reg. 25796 (June 22, 1984)
50 Fed. Reg. 1050 (January 9, 1985)
50 Fed. Reg. 4648 (February 1, 1985)
50 Fed. Reg. 9800 (March 12, 1985)
50 Fed. Reg. 36992 (September 11, 1985)
50 Fed. Reg. 37353 (September 13, 1985)
50 Fed. Reg. 41494 (October 11, 1985)
50 Fed. Reg. 51173 (December 13, 1985)
51 Fed. Reg. 22733 (June 20, 1986)
51 Fed. Reg. 24325 (July 3, 1986)
51 Fed. Reg. 25053 (July 10, 1986)
51 Fed. Reg. 33033 (September 18, 1986)
51 Fed. Reg. 33260 (September 19, 1986)
51 Fed. Reg. 34560 (September 29, 1986)
51 Fed. Reg. 45663 (December 19, 1986)
52 Fed. Reg. 16241 (May 4, 1987)
52 Fed. Reg. 17753 (May 12, 1987)
52 Fed. Reg. 34562 (September 11, 1987)
52 Fed. Reg. 36026 (September 25, 1987)
52 Fed. Reg. 36387 (September 28, 1987)
52 Fed. Reg. 46291 (December 4, 1987)
52 Fed. Reg. 49624 (December 31, 1987)
53 Fed. Reg. 6629 (March 2, 1988)
53 Fed. Reg. 8352 (March 14, 1988)
53 Fed. Reg. 11436 (April 6, 1988)
53 Fed. Reg. 12120 (April 12, 1988)
53 Fed. Reg. 16838 (May 11, 1988)
53 Fed. Reg. 17695 (May 18, 1988)
53 Fed. Reg. 27346 (July 20, 1988)

53 Fed. Reg. 27960 (July 26, 1988)
53 Fed. Reg. 34736 (September 8, 1988)
53 Fed. Reg. 35625 (September 14, 1988)
53 Fed. Reg. 37080 (September 23, 1988)
53 Fed. Reg. 38162 (September 29, 1988)
53 Fed. Reg. 39581 (October 7, 1988)
53 Fed. Reg. 45080 (November 8, 1988)
53 Fed. Reg. 47188 (November 22, 1988)
53 Fed. Reg. 49981 (December 13, 1988)
54 Fed. Reg. 2920 (January 19, 1989)
54 Fed. Reg. 6888 (February 15, 1989)
54 Fed. Reg. 9317 (March 6, 1989)
54 Fed. Reg. 12792 (March 28, 1989)
54 Fed. Reg. 28054 (July 5, 1989)
54 Fed. Reg. 29274 (July 11, 1989)
54 Fed. Reg. 29545 (July 13, 1989)
54 Fed. Reg. 30704 (July 21, 1989)
54 Fed. Reg. 31456 (July 28, 1989)
54 Fed. Reg. 31765 (August 1, 1989)
54 Fed. Reg. 36687 (September 1, 1989)
54 Fed. Reg. 36767 (September 5, 1989)
54 Fed. Reg. 37531 (September 11, 1989)
54 Fed. Reg. 41364 (October 6, 1989)
54 Fed. Reg. 46610 (November 6, 1989)
54 Fed. Reg. 47513 (November 15, 1989)
54 Fed. Reg. 49971 (December 4, 1989)
54 Fed. Reg. 50372 (December 6, 1989)
54 Fed. Reg. 52024 (December 20, 1989)
55 Fed. Reg. 3146 (January 30, 1990)
55 Fed. Reg. 3300 (January 31, 1990)
55 Fed. Reg. 3723 (February 5, 1990)
55 Fed. Reg. 4998 (February 13, 1990)
55 Fed. Reg. 7967 (March 6, 1990)
55 Fed. Reg. 12110 (March 30, 1990)
55 Fed. Reg. 12819 (April 6, 1990)
55 Fed. Reg. 13696 (April 11, 1990)
55 Fed. Reg. 14073 (April 13, 1990)
55 Fed. Reg. 19259 (May 9, 1990)
55 Fed. Reg. 25094 (June 10, 1990)
55 Fed. Reg. 26431 (June 28, 1990)
55 Fed. Reg. 32014 (August 6, 1990)
55 Fed. Reg. 38677 (September 20, 1990)
55 Fed. Reg. 46053 (November 1, 1990)
55 Fed. Reg. 46949 (November 8, 1990)
55 Fed. Reg. 50686 (December 10, 1990)
56 Fed. Reg. 15832 (April 18, 1991)
56 Fed. Reg. 24686 (May 31, 1991)
56 Fed. Reg. 43700 (September 4, 1991)
56 Fed. Reg. 64175 (December 6, 1991)
57 Fed. Reg. 6403 (February 24, 1992)
57 Fed. Reg. 7847 (March 4, 1992)
57 Fed. Reg. 7878 (March 5, 1992)

57 Fed. Reg. 22307 (May 27, 1992)
57 Fed. Reg. 24330 (June 8, 1992)
57 Fed. Reg. 24701 (June 10, 1992)
57 Fed. Reg. 27160 (June 18, 1992)
57 Fed. Reg. 29204 (July 1, 1992)
57 Fed. Reg. 29206 (July 1, 1992)
57 Fed. Reg. 35666 (August 10, 1992)
57 Fed. Reg. 42388 (September 14, 1992)
58 Fed. Reg. 4549 (January 14, 1993)
58 Fed. Reg.15089 (March 19, 1993)
58 Fed. Reg. 16496 (March 29, 1993)
58 Fed. Reg. 21778 (April 23, 1993)
58 Fed. Reg. 34845 (June 29, 1993)
58 Fed. Reg. 35308 (June 30, 1993)
58 Fed. Reg. 35340 (June 30, 1993)
58 Fed. Reg. 40191 (July 27, 1993)
59 Fed. Reg. 4435 (January 31, 1994)
59 Fed. Reg. 6169 (February 9, 1994)
59 Fed. Reg. 16360 (April 6, 1994)
59 Fed. Reg. 26115 (May 19, 1994)
59 Fed. Reg. 33661 (June 30, 1994)
59 Fed. Reg. 33910 (July 1, 1994)
59 Fed. Reg. 36699 (July 19, 1994)
59 Fed. Reg. 40729 (August 9, 1994)
59 Fed. Reg. 41057 (August 10, 1994)
59 Fed. Reg. 43270 (August 22, 1994)
59 Fed. Reg. 51741 (October 12, 1994)
59 Fed. Reg. 65948 (December 22, 1994)
60 Fed. Reg. 9624 (February 21, 1995)
60 Fed. Reg. 11194 (March 1, 1995)
60 Fed. Reg. 33344 (June 28, 1995)
60 Fed. Reg. 33984 (June 29, 1995)
60 Fed. Reg. 47035 (September 8, 1995)
60 Fed. Reg. 52859 (October 11, 1995)
61 Fed. Reg. 5508 (February 13, 1996)
61 Fed. Reg. 9230 (March 7, 1996)
61 Fed. Reg. 9583 (March 8, 1996)
61 Fed. Reg. 19548 (May 2, 1996)
61 Fed. Reg. 21228 (May 9, 1996)
61 Fed. Reg. 31430 (June 20, 1996)
61 Fed. Reg. 43456 (August 23, 1996)
61 Fed. Reg. 56831 (November 4, 1996)
62 Fed. Reg. 1600 (January 10, 1997)
62 Fed. Reg. 29668 (June 2, 1997)
62 Fed. Reg. 40195 (July 25, 1997)
62 Fed. Reg. 42018 (August 4, 1997)
62 Fed. Reg. 42666 (August 8, 1997)
62 Fed. Reg. 43581 (August 14, 1997)
62 Fed. Reg. 48175 (September 15, 1997)
62 Fed. Reg. 54383 (October 20, 1997)
62 Fed. Reg. 65203 (December 11, 1997)
62 Fed. Reg. 66276 (December 18, 1997)

63 Fed. Reg. 1269 (January 8, 1998)
63 Fed. Reg. 13339 (March 19, 1998)
63 Fed. Reg. 17093 (April 8, 1998)
63 Fed. Reg. 20098 (April 23, 1998)
63 Fed. Reg. 33467 (June 18, 1998)
63 Fed. Reg. 50729 (September 22, 1998)
63 Fed. Reg. 66038 (December 1, 1998)
63 Fed. Reg. 66270 (December 1, 1998)
64 Fed. Reg. 13700 (March 22, 1999)
64 Fed. Reg. 13908 (March 23, 1999)
64 Fed. Reg. 22552 (April 27, 1999)
65 Fed. Reg. 76567 (December 7, 2000)
66 Fed. Reg. 5324 (January 18, 2001)
66 Fed. Reg. 18191 (April 6, 2001)
67 Fed. Reg. 67961 (November 7, 2002)
68 Fed. Reg. 75780 (December 31, 2003)
69 Fed. Reg. 7363 (February 17, 2004)
69 Fed. Reg. 31881 (June 8, 2004)
69 Fed. Reg. 46993 (August 4, 2004)
70 Fed. Reg. 53929 (September 13, 2005)
70 Fed. Reg. 1140 (January 5, 2005)
71 Fed. Reg. 10373 (February 28, 2006)
71 Fed. Reg. 36008 (June 23, 2006)
71 Fed. Reg. 63242 (October 30, 2006)
72 Fed. Reg. 7190 (February 14, 2007)
72 Fed. Reg. 64428 (November 15, 2007)
72 Fed. Reg. 71068 (December 14, 2007)
73 Fed. Reg. 75583 (December 12, 2008)
68 Fed. Reg. 32638 (June 2, 2003)
74 Fed. Reg. 46355 (September 9, 2009)
74 Fed. Reg. 40447 (August 11, 2009)
75 Fed. Reg. 12685 (March 17, 2010)
76 Fed. Reg. 33606 (June 8, 2011)
76 Fed. Reg. 75786 (December 5, 2011)
77 Fed. Reg. 17764 (March 26, 2012)
76 Fed. Reg. 80738 (December 27, 2011)
77 Fed. Reg. 37598 (June 22, 2012)
77 Fed. Reg. 46949 (August 7, 2012)
78 Fed. Reg. 9313 (February 8, 2013)
78 Fed. Reg. 69549 (November 20, 2013)
79 Fed. Reg. 20629 (April 11, 2014)
79 Fed. Reg. 56960 (September 24, 2014)
80 Fed. Reg. 60036 (October 5, 2015)
81 Fed. Reg. 16090 (March 25, 2016)
81 Fed. Reg. 16861 (March 25, 2016)
81 Fed. Reg. 82981 (November 18, 2016)
82 Fed. Reg. 2735 (January 9, 2017)
83 Fed. Reg. 19948 (May 7, 2018)
84 Fed. Reg. 21457 (May 14, 2019)
84 Fed. Reg. 50755 (September 26, 2019)
84 Fed. Reg. 68795 (December 17, 2019)
85 Fed. Reg. 8731 (February 18, 2020)

86 Fed. Reg. 32620 (June 21, 2021)
86 Fed. Reg. 32620 (June 22, 2021)
83 Fed. Reg. 31045 (July 3, 2018)
85 Fed. Reg. 42625 (July 14, 2020)
89 Fed. Reg. 44144 (May 20, 2024)
89 Fed. Reg. 81829 (October 9, 2024)

ARC 8726C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to general requirements and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt Chapter 1000, "General Requirements," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 123.10 and 123.49.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 17A.18, 123.3, 123.4, 123.10, 123.24, 123.30 through 123.31B, 123.33, 123.35, 123.38, 123.39, 123.49 and 123.49A.

Purpose and Summary

This proposed chapter describes guidelines surrounding requirements that licensees and permittees must follow pertaining to their license or permit type, in addition to processes and procedures involved for certain license privileges. Because this content is currently under the Alcoholic Beverage Division's rules as 185—Chapters 4 and 5, those existing chapters are outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. The proposed changes to the rules update the rule on vending machines to reflect changes in the industry since the time the original rule was written. In a separate rulemaking, 185—Chapters 4 and 5 are proposed to be rescinded. This rulemaking proposes to readopt the content of those chapters under the Department as 701—Chapter 1000. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

Two public comments on the Regulatory Analysis were received in writing; however, no changes have been made to the text based on the comments. The American Property Casualty Insurance Association requested the statutory authority to set the time frame for cancellation and also clarification on language found under paragraph 1000.14(1)"c" regarding proof of coverage. Additionally, a retail alcohol license holder provided feedback unrelated to the rulemaking itself. The only change made from the Regulatory Analysis publication is found under subrule 1000.28(2), lowering the fee from $25 to $20 for dishonored payments of alcoholic liquor. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Madelyn Cutler
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.724.2924
Email: madelyn.cutler@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 10 to 11 a.m.	Via videoconference call meet.google.com/cec-wnfw-kxv
February 25, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/rxw-nuwh-sdj

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 1000:

CHAPTER 1000
GENERAL REQUIREMENTS

701—1000.1(123) Definitions.

"Department" means the department of revenue.

"Director" means the director of the department of revenue or the director's designee.

This rule is intended to implement Iowa Code sections 123.3 and 123.4.

701—1000.2(123) Requirements. All applicants for licenses, permits, or certificates of compliance are subject to the following requirements, where applicable, prior to receiving a new or renewed license, permit, or certificate of compliance.

1000.2(1) *Cleanliness of premises.* The interior and exterior of the licensed premises shall be kept clean, free of litter or rubbish, painted and in good repair. Licensees and permittees shall at all times keep and maintain their respective premises in compliance with all laws, orders, rules, and ordinances of the state, county, and local authority, including but not limited to the applicable health and fire regulations.

1000.2(2) *Toilet facilities.* All licensees who mix, serve, or sell alcoholic beverages for consumption on the licensed premises shall provide for their patrons adequate, conveniently located indoor or outdoor toilet facilities. Compliance with county; city; and department of inspections, appeals, and licensing rules and regulations regarding toilet facilities, including any waivers granted by those authorities, shall constitute compliance with this rule. Outdoor toilet facilities shall be approved by the department of inspections, appeals, and licensing and the local authority where the licensed premises is located.

1000.2(3) *Water.* All licensed premises shall be equipped with hot and cold running water from a source approved by an authorized health department.

1000.2(4) *Financial standing and reputation.* A local authority or the director may consider an applicant's financial standing and good reputation in addition to the other requirements and conditions for obtaining a license, permit, or certificate of compliance. An application for a license, permit, or certificate of compliance is subject to denial by the director or local authority if the applicant fails to demonstrate that the applicant complies with the lawful requirements and conditions for holding the license, permit, or certificate of compliance.

a. In evaluating an applicant's "financial standing," the local authority or the director may consider such factors as but not limited to the following:

(1) Verified source(s) of financial support and adequate operating capital for the applicant's proposed establishment.

(2) A record of timely submission of all required federal, state, or local tax returns or forms and prompt payment of all taxes due.

(3) A record of prompt payment to the local authority of fees or charges made by a local authority for municipal utilities or other municipal services incurred in conjunction with the proposed establishment.

(4) A record of prompt payment or satisfaction of administrative penalties imposed pursuant to Iowa Code chapter 123.

(5) A record of maintaining, and providing prompt payment for, dramshop liability insurance coverage as required pursuant to Iowa Code chapter 123.

(6) A record of prompt payment for license, permit, or certificate fees.

(7) A record of prompt payment for alcoholic liquor orders placed with the department.

b. In evaluating an applicant's "good reputation," the local authority or the director may consider such factors as but not limited to the following:

(1) A pattern or practice of sales of alcoholic beverages to persons under the legal age for which the licensee, or the licensee's agents or employees, have pled or have been found guilty.

(2) A pattern or practice by the licensee or permittee, or the licensee's or permittee's agents or employees, of violating alcoholic beverages laws and regulations for which corrective action has been taken since the previous license or permit was issued.

(3) Sales to intoxicated persons.

(4) Licensee or permittee convictions for violations of laws relating to operating a motor vehicle while under the influence of drugs or alcohol and the recency of such convictions.

(5) Licensee or permittee misdemeanor convictions and the recency of such convictions.

(6) A pattern or practice by the licensee or permittee, or the licensee's or permittee's agents or employees, of failing to cooperate with the department of public safety, the department, the county attorney, the county sheriff and sheriff's deputies, the city police department, or the city attorney.

(7) A pattern or practice by the licensee of violating local ordinances established by the local authority pursuant to Iowa Code section 123.39(2).

(8) A pattern or practice by the licensee of failing to report any change in the ownership or interest of the business pursuant to Iowa Code section 123.39(1)*"b"*(3).

c. In addition to other reasons specified by statute or rule, the department may refuse to issue a license or permit or may revoke, suspend, or not renew any license or permit for which it has jurisdiction if the centralized collection unit of the department has issued a certificate of noncompliance pursuant to the procedures set forth in Iowa Code chapter 272D.

This rule is intended to implement Iowa Code sections 123.3(40), 123.10(11), and 272D.8(2).

701—1000.3(123) Display of license, permit, or placards. All licenses, permits, or placards issued by the department must be prominently displayed in full view on the licensed premises.

This rule is intended to implement Iowa Code sections 123.4 and 123.30.

701—1000.4(123) Determination of population. Decennial censuses and special censuses done by the U.S. Census Bureau are recognized as being the official population of a town for the purpose of deciding the price of licenses in that town, but estimates done by the U.S. Census Bureau cannot be viewed as being the official population when deciding the price of licenses.

This rule is intended to implement Iowa Code section 123.10(11).

701—1000.5(123) Local ordinances permitted. The foregoing rules shall in no way be construed as to prevent any county, city or town from adopting more restrictive ordinances or regulations governing licensed establishments within their jurisdiction.

This rule is intended to implement Iowa Code section 123.39.

701—1000.6(123) Licensed premises.

1000.6(1) *Criteria.* The following criteria must be met before a "place" (as used in Iowa Code section 123.3(29)) may be licensed as a "place susceptible of precise description satisfactory to the director."

a. The place must be owned by or under the control of the prospective licensee or permittee for the entire duration of the applied-for license or permit.

b. The place must be solely within the jurisdiction of one local approving authority.

c. The place must be described by a sketch of the "premises" as defined in Iowa Code section 123.3(29) and showing the boundaries of the proposed place; showing the locations of selling/serving areas within the confines of the place; showing all entrances and exits; and indicating the measurements of the place.

d. The place must satisfy the health, safety, fire and seating requirements of the department, local authorities, and the department of inspections, appeals, and licensing.

e. Any other criteria as required by the director.

1000.6(2) *Definitions.*

"Separate premises" means:

1. A clearly defined area bounded on all sides and connecting angles by permanent, solid walls or windows extending from the floor to the ceiling, with entrances and exits that can be closed.

2. The entrances and exits shall not adjoin or provide direct access to an establishment licensed under this chapter for the sale of alcoholic beverages for consumption on the premises.

3. This term describes how holders of other retail alcohol licenses may establish a class "E" retail alcohol licensed establishment at the same physical address as their other licensed establishment.

4. The separate premises must operate independently from other licensed premises, including but not limited to:

- Maintaining a separate inventory;

- Using a separate cash register; and
- Keeping separate books and records.

"Square footage of the licensed premises" means the total interior floor area of the establishment, measured in square feet. This includes all spaces within the establishment used or to be used for:

1. Storage of alcoholic beverages;
2. Distribution of alcoholic beverages;
3. Warehousing of alcoholic beverages;
4. Display of alcoholic beverage products;
5. Wholesale operations;
6. Retail sales area; and
7. Any other spaces used in the operation of the licensed business.

This rule is intended to implement Iowa Code sections 123.3(29), 123.4, and 123.30.

701—1000.7(123) Outdoor service. Any on-premises retail alcohol licensee with a discernible, contiguous, outdoor area on the same property may apply for an outdoor service privilege. An outdoor service privilege allows an on-premises licensee to sell or serve the type of alcoholic beverage permitted by the license in an outdoor area. The privilege is an extension of a licensed premises outlined under rule 701—1000.6(123). The department may grant an outdoor service privilege once the licensee provides:

1. A new sketch showing the discernible outdoor area, including a contiguous entrance.
2. Local authority approval of the outdoor area.
3. Insurance company acknowledgment that the outdoor area is covered by the dramshop insurance policy.
4. Any other information deemed necessary by the director.

This rule is intended to implement Iowa Code sections 123.3(29), 123.4, and 123.38.

701—1000.8(123) Transfer of license or permit to another location.

1000.8(1) *Transfer conditions.* A retail alcohol license, wine permit, or beer permit may be transferred within the jurisdiction of the local authority that approved the license or permit. A licensee or permittee is only allowed to sell or serve alcoholic beverages at the transferred license or permit location once approved by the department. Sales and service at the original location must stop during the time of the license/permit transfer. Seasonal, 14-day, and 5-day retail alcohol licenses cannot be transferred.

1000.8(2) *Transfer applications.*

a. A licensee or permittee may apply for a permanent or temporary transfer by providing:

(1) A new sketch showing the premises to be licensed.

(2) Proof of control by the licensee of the premises to be licensed.

(3) Any other information deemed necessary by the director.

b. The application must be approved by the local authority and the department prior to the transfer.

c. The insurance company holding the dramshop policy listing the new address must endorse the application prior to the transfer, if applicable.

d. If a permanent transfer is approved, the department will issue an amended license or permit showing the new permanent address. If a temporary transfer is approved, the department will issue a letter of authorization to the local authority and licensee or permittee showing the new temporary address.

This rule is intended to implement Iowa Code sections 123.4 and 123.38.

701—1000.9(123) Age requirements. Persons 21 years of age or older may hold a retail alcohol license, wine permit, or beer permit. Persons 16 years of age and older may sell alcoholic beverages in off-premises establishments.

This rule is intended to implement Iowa Code sections 123.30 and 123.49.

701—1000.10(123) Persons under the legal age in licensed establishments. A person under 21 years of age may be in a licensed establishment if the local authority does not have a local ordinance prohibiting said persons from being in licensed establishments in its jurisdiction.

This rule is intended to implement Iowa Code sections 123.3(28) and 123.10(5).

701—1000.11(123) Use of establishment during hours alcoholic beverages cannot be consumed. A retail alcohol licensed establishment may be used as a restaurant or for any other lawful purpose during the hours in which alcoholic beverages are not allowed to be sold, dispensed, or consumed.

This rule is intended to implement Iowa Code section 123.49.

701—1000.12(123) Improper conduct.

1000.12(1) *Illegality on premises.* A retail alcohol licensee, or the licensee's agent or employee, must not engage in or knowingly allow any illegal occupation or illegal act on the licensed premises.

1000.12(2) *Cooperation with law enforcement officers.* A retail alcohol licensee, or the licensee's agent or employee, must not refuse, fail, or neglect to cooperate with any law enforcement officer in the performance of such officer's duties to enforce the provisions of the alcoholic beverage control Act.

1000.12(3) *Open containers of alcoholic liquor.* A class "C," class "D," class "E," or class "F" retail alcohol licensee, or the licensee's agent or employee, must not allow any open or unsealed containers of alcoholic liquor to be taken off the licensed premises, excluding mixed drinks or cocktails pursuant to Iowa Code section 123.49(2)*"d"*(3).

1000.12(4) *Identifying markers.* A licensee shall not keep on the licensed premises nor use for resale alcoholic liquor that does not bear identifying markers as prescribed by the director.

This rule is intended to implement Iowa Code section 123.49(2).

701—1000.13(123) Change of ownership of a licensed premises—new license or permit required.

1000.13(1) A new license or permit, a new bond, and a new dramshop policy, as applicable, need to be obtained whenever one of the following occurs:

a. When a business is sold or leased to another person.

b. When a licensee or permittee changes to another form of business, such as a sole proprietorship to a corporation, a corporation to a sole proprietorship, a sole proprietorship to a partnership, a partnership to a sole proprietorship, a partnership to a corporation, or a corporation to a partnership.

c. When a partner leaves a partnership or when a new partner is added to a partnership.

d. When a corporation name is changed due to a merger or is voluntarily changed by its owners.

e. Each time an entity obtains a seasonal or 5- or 14-day license.

f. When a receiver takes over the operation of an establishment.

1000.13(2) A new license or permit is not necessary:

a. When only the trade name of the business is changed.

b. When the stock of a corporation holding a license or permit is sold. The new owner or owners and the amount of stock held by each need to be submitted to the department electronically or in a manner prescribed by the director.

c. When a name of a licensee or permittee is changed by marriage, divorce, or other legal proceeding. Proof of the legal name change needs to be submitted to the department electronically or in a manner prescribed by the director.

This rule is intended to implement Iowa Code sections 123.4, 123.10, 123.31, and 123.49.

701—1000.14(123) Dramshop liability insurance requirements. For the purpose of providing proof of financial responsibility, as required under the provisions of Iowa Code section 123.92, a dramshop liability insurance policy must meet the following requirements:

1000.14(1) *Requirements.*

a. Proof of coverage—current certificate required. The dramshop liability certificate of insurance must be issued by a company holding a current certificate of authority from the Iowa insurance commissioner authorizing the company to issue dramshop liability insurance in Iowa. A new dramshop liability certificate of insurance must be provided in the manner designated by the director each time the department issues a license. The dramshop liability certificate of insurance must contain the following information:

(1) The name of the insurance provider.

(2) The policy number.

(3) The name and address of the insured.

(4) The policy effective dates.

(5) The license number of the insured, if applicable.

b. Dates of coverage.

(1) If dramshop liability insurance coverage is required as a condition of the license under Iowa Code section 123.92, the applicant or licensee must have and maintain dramshop liability insurance that covers the entire license term.

(2) If an applicant or licensee has proof of a dramshop liability insurance policy that does not cover the entire license term, the applicant or licensee will be required to provide, prior to the policy's expiration date, proof that the policy has been renewed and coverage will continue or proof that a new policy meeting the necessary requirements has been obtained.

c. Electronic attestation. The applicant or licensee must agree as a condition of license issuance that the applicant has read and will abide by all of the dramshop liability insurance requirements set forth in Iowa Code chapter 123 and this rule. The applicant or licensee understands that failure to adhere to these rules means the applicant no longer possesses the statutory requirement for licensure and the applicant's license may be suspended or canceled. The burden is upon the applicant or licensee to ensure that the department has on file valid proof of dramshop liability insurance.

d. Electronic verification/endorsement by an authorized insurance representative. An authorized representative of the insurance carrier providing dramshop liability insurance for the applicant or licensee must electronically register with the department. The insurer must electronically provide verification of coverage and notice of cancellation or expiration in accordance with the Iowa Code and this rule. Upon request, an insurance company or an insured applicant or licensee must provide a duplicate original of the policy and all pertinent endorsements.

1000.14(2) *Minimum coverage required.* The dramshop liability insurance policy must provide the following minimum liability coverage, exclusive in interests and cost of action, per occurrence:

a. Fifty thousand dollars for bodily injury to or death of one person in each claim or occurrence.

b. One hundred thousand dollars for bodily injury to or death of two or more persons in each occurrence.

c. Twenty-five thousand dollars for loss of means of support of any one person in each occurrence.

d. Fifty thousand dollars for loss of means of support of two or more persons in each occurrence.

1000.14(3) *Permitted policies.* All dramshop liability insurance policies issued under this rule must be occurrence-based policies, not claims-made-based policies.

a. Claims-made-based policies. Claims-made-based policies provide liability coverage only if a written claim is made during the policy period, or any applicable extended reporting period.

b. Occurrence-based policies. Occurrence-based policies provide liability coverage only for injuries or damages that occur during the policy period regardless of the number of written claims made.

1000.14(4) *Civil tort liability.* Subject to the ordinary or customary exclusions usually found in a policy of dramshop liability insurance, the policy must contain coverage to insure against civil tort liability of the insured, created under Iowa Code sections 123.92, 123.93, and 123.94.

1000.14(5) *Assault and battery policy requirement.* Any dramshop liability insurance policy issued under this rule must not contain an exclusionary clause for assault and battery or intentional force with regard to:

a. Employees, agents, or any person acting as an agent of the establishment.

b. All patrons or visitors to the establishment.

1000.14(6) *Single insurance policies for multiple establishments.* Any licensee that holds multiple licenses throughout the state may purchase a single dramshop liability insurance policy for all locations provided that:

a. The single dramshop liability insurance policy provides at least the minimum level of coverage required under this rule for each and every location covered by the policy.

b. All other provisions of this rule are met by the single dramshop liability insurance policy.

1000.14(7) *Change of coverage by licensee.* A licensee may change its dramshop liability insurer at any time, but the duty is upon the licensee to provide proof of its new insurer as set out in this rule. Additionally, the licensee must maintain dramshop liability insurance coverage with no gaps in its coverage.

1000.14(8) *Cancellation of coverage by insurer.*

a. An insurance company may cancel a dramshop liability insurance policy by giving a minimum of 30 days' prior notice in writing or electronically to the department of the party's intent to cancel the policy. The 30-day period will begin on the date that the notice of cancellation is received by the department. The dramshop insurance company must also mail a copy of the notice of cancellation to its insured licensee.

b. The insurance company's notice of cancellation must contain the following information:

(1) The name of the party to whom the copy of the notice of cancellation was mailed and, if different, the name of the affected licensee;

(2) The address to which the copy of the notice of cancellation was sent and, if different, the address of the affected licensee;

(3) The date on which the notice of cancellation was mailed;

(4) The date the dramshop liability insurance policy is being canceled;

(5) The dramshop liability insurance policy number;

(6) The affected licensee's retail alcohol license number; and

(7) The reason for canceling the dramshop liability insurance policy.

1000.14(9) *Violations.* Failure to comply with this rule may subject the applicant or licensee to the penalty provisions provided in Iowa Code chapter 123, including but not limited to denial, suspension, or revocation.

This rule is intended to implement Iowa Code sections 123.92 through 123.94.

701—1000.15(123) Timely filed status.

1000.15(1) In addition to the requirements that may be imposed by a local authority upon the holder of a retail alcohol license to obtain timely filed status of a renewal application, the department may grant timely filed status if the applicant complies with the following conditions:

a. The applicant submits a completed application with the local authority or the department as required by applicable law.

b. The applicant submits a current dramshop liability certificate by the license expiration date if proof of dramshop liability is required as a condition precedent to the issuance of the license.

c. The applicant pays the appropriate license fee in full as required by applicable law.

d. A bond has been certified by the carrier if a bond is required as a condition precedent to the issuance of the license under applicable law.

1000.15(2) Timely filed status allows the holder of the license or permit to continue to operate under a license after its expiration and until the local authority and the department have finally determined whether the license should be issued. If the application for the license is denied, timely filed status continues until the last day for seeking judicial review of the department's action.

This rule is intended to implement Iowa Code sections 123.3, 123.32, 123.35, and 17A.18.

701—1000.16(123) Surety bond requirements. Each surety bond must meet the following conditions:

1000.16(1) *Certificate of authority.* The surety bond is issued by a company holding a current certificate of authority from the commissioner of insurance authorizing the company to issue bonds in Iowa.

1000.16(2) *Forfeiture of bond.* The surety bond contains a provision for the principal and surety to consent to the forfeiture of the principal sum of the bond in the event of revocation of the license or permit by the violation of any Iowa Code provision that requires forfeiture of the bond.

1000.16(3) *Cancellation.* A surety company or a principal may cancel a bond by giving the department a 30-day written notice of intent to cancel the bond. The 30-day period begins on the date that the department receives the notice of cancellation.

a. The party seeking to cancel a bond must submit written notice of such cancellation to the department and submit a copy of the notice of cancellation to the other party.

b. The notice of cancellation must contain the following:

(1) The name of the party to whom the copy of the notice of cancellation was submitted.

(2) The date on which the notice of cancellation was submitted.

(3) The date the bond is being canceled.

(4) The surety bond number.

(5) The affected licensee's or permittee's license or permit number.

1000.16(4) *Proof of bond.* A licensee or permittee is considered to have furnished a surety bond when the licensee or permittee has:

a. Filed with the department a form prescribed by the department containing the following:

(1) The name of the bond provider,

(2) The city and state where the bond provider is located,

(3) The bond number, the names of the principal, and the city and state where the principal is located,

(4) The amount of the bond,

(5) The type of license or permit guaranteed by the bond,

(6) The effective date of the bond,

(7) Signatures of the principal and the bond provider, and

(8) Any other information the director of the department may require; or

b. Met this requirement by any other method deemed acceptable by the director of the department.

This rule is intended to implement Iowa Code sections 123.30, 123.50, 123.127, and 123.175.

701—1000.17(123) Production definitions.

"Operating still" means a still that is registered with the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 19.75(b) in effect as of April 1, 2023, and is actively used to manufacture spirits.

"Proof gallon" means a United States gallon of proof spirits, or the alcoholic equivalent thereof, as defined by the Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 CFR 30.11 in effect as of April 1, 2023.

This rule is intended to implement Iowa Code section 123.3(35).

701—1000.18(123) Manufacture and sale of native wine. Manufacturers of native wine as defined in Iowa Code section 123.3(36) may sell, keep, offer for sale, or deliver their native wine subject to the following conditions:

1000.18(1) *Class "A" native wine permit.* A manufacturer of native wine must display the original or a copy of its class "A" native wine permit in each of its native wineries and in each of its retail establishments. A manufacturer of native wine must register its retail establishment on forms or systems provided by the department.

1000.18(2) *Monthly combined wine production and wine gallonage tax report.* A monthly report showing the amount of wine on hand at the beginning of the month, the amount produced, the amount sold, the amount of wine gallonage tax due, and any other information requested is to be filed with the department. Report forms will be furnished by the department. A manufacturer of native wine must submit a report along with any wine gallonage tax payment to the department's licensing system by the tenth of each month for the preceding month's business. Reports and wine gallonage tax payments submitted by the tenth of each month for the preceding month will be considered timely. This report must be submitted for each month even if no wine sales were made during the month.

This rule is intended to implement Iowa Code sections 123.4, 123.176, and 123.183.

701—1000.19(123) Mixed drinks or cocktails not for immediate consumption. A class "C," class "D," or class "F" retail alcohol licensee may mix, store, and allow the consumption of mixed drinks or cocktails that are not for immediate consumption for up to 72 hours, subject to Iowa Code section 123.49(2)*"d"* and this rule.

1000.19(1) *Definitions.*

"Immediate consumption," for the purposes of this rule, means the compounding and fulfillment of a mixed drink or cocktail order at the time of sale of the mixed drink or cocktail.

"Mixed drink or cocktail," for the purposes of this rule, means an alcoholic beverage as defined in Iowa Code section 123.3(32).

1000.19(2) *Mixing and storing conditions.* A mixed drink or cocktail that is not for immediate consumption is to be in a container compliant with applicable state and federal food safety statutes and regulations at all times.

a. The mixed drink or cocktail must be mixed and stored in the same container.

b. The mixed drink or cocktail may only be removed from the stored container for one of the following dispensing purposes:

(1) To compound and fulfill a mixed drink or cocktail order at the time of sale.

(2) For transfer into a pourable container. The pourable container needs to have an affixed label displaying information identical to that on the container from which the contents were poured. The transfer of product to a pourable container will not extend the expiration date and time.

c. The mixed drink or cocktail may be strained into another container when it is returned without delay to the labeled container from which it was strained.

d. The container and process need to be conducted in compliance with applicable state and federal food safety statutes and regulations.

e. The mixed drink or cocktail shall not be mixed, stored, or dispensed from a container bearing an alcoholic beverage name brand.

f. A dispensing machine that contains a mixed drink or cocktail is subject to the conditions of this rule.

1000.19(3) *Labeling conditions.*

a. When a mixed drink or cocktail is placed into a container, a label must be affixed in a conspicuous place and legibly state the following information:

(1) The month, day, year, and time the contents are placed into the container.

(2) The month, day, year, and time the contents expire.

(3) The title of the recipe used.

(4) The identity of the person who prepared the contents of the container.

(5) The size of the batch within the container.

(6) The words "CONTAINS ALCOHOL."

b. The label is subject to the following conditions:

(1) The label must be removed from the container once the entire contents have been consumed, transferred to a pourable container pursuant to subparagraph 1000.19(2)*"b"*(2), or destroyed and disposed of in accordance with applicable law.

(2) A label must not be reused or reapplied to a container.

(3) A new label must be placed on the container for each prepared batch of mixed drinks or cocktails that is not for immediate consumption.

c. A licensee may access a label template on the website of the department located at revenue.iowa.gov.

1000.19(4) *Content conditions.*

a. Contents of a mixed drink or cocktail may include alcoholic beverages, nonalcoholic ingredients, or a combination of both that are not for immediate consumption.

b. A licensee may use in the mixed drink or cocktail only alcoholic beverages allowed by the license type and obtained as specified by Iowa Code chapter 123.

c. The added flavors and other nonbeverage ingredients of the mixed drink or cocktail shall not include hallucinogenic substances; added caffeine or added stimulants, including but not limited to guarana, ginseng, and taurine; or a controlled substance as defined in Iowa Code section 124.101, including tetrahydrocannabinol.

1000.19(5) *Disposal conditions.*

a. Any mixed drink or cocktail, or portion thereof, not consumed within 72 hours of the contents being placed into the empty container is expired and must be destroyed and disposed of in accordance with applicable law.

b. An expired mixed drink or cocktail that is not for immediate consumption shall not be:

(1) Added to an empty container and relabeled; or

(2) Added to another mixed drink or cocktail that is not for immediate consumption.

1000.19(6) *Recordkeeping.* A licensee must maintain accurate and legible records for each prepared batch of mixed drinks or cocktails that is not for immediate consumption.

a. Records must contain:

(1) The month, day, year, and time the contents were placed into the empty container.

(2) The contents placed in the container, including alcoholic beverages and nonalcoholic ingredients.

(3) The recipe title and directions for preparing the contents of the container.

(4) The size of the batch.

(5) The identity of the person who prepared the contents of the container.

(6) The month, day, year, and time the contents of the container were destroyed and disposed of or entirely consumed.

(7) The method of destruction and disposal or the record that the entire contents were consumed.

(8) The identity of the person who destroyed and disposed of the contents, if the contents were not consumed.

b. A licensee may access recordkeeping forms on the website of the department located at revenue.iowa.gov.

c. Records must be maintained on the licensed premises for a period of three years and shall be open to inspection pursuant to Iowa Code sections 123.30(1) and 123.33.

1000.19(7) *Federal alcohol compliance.* A licensee who mixes, stores, and allows the consumption of mixed drinks or cocktails that are not for immediate consumption is subject to all applicable federal statutes and regulations. Prohibitions include but are not limited to processing with non-tax-paid alcoholic liquor, aging alcoholic liquor in barrels, heating alcoholic liquor, bottling alcoholic liquor, and refilling alcoholic liquor or wine bottles.

1000.19(8) *Violations.* Failure to follow this rule subjects the licensee to the penalty provisions of Iowa Code section 123.39.

This rule is intended to implement Iowa Code sections 123.49 and 123.49A.

701—1000.20(123) Filling and selling of beer in a container other than the original container. Class "B," class "C," special class "C," and class "E" retail alcohol licensees, and the licensee's employees may fill, refill, and sell beer in a container other than the original container, otherwise known as a growler, subject to Iowa Code section 123.31A and this rule.

1000.20(1) *Definitions.*

"Beer," for the purposes of this rule, means "beer" as defined in Iowa Code section 123.3(7) and "high alcoholic content beer" as defined in Iowa Code section 123.3(22).

"Growler," for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold beer or high alcoholic content beer.

"Original container," for the purposes of this rule, means a vessel containing beer that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture. For special class "A" beer permit holders, an "original container" includes a tank used for storing and serving beer.

1000.20(2) *Filling and refilling conditions.*

a. A growler may be filled or refilled only with beer from the original container purchased from a class "A" beer permittee. However, a special class "A" beer permittee may fill or refill a growler with beer manufactured by the special class "A" beer permittee on the permittee's licensed premises.

b. A retailer may exchange a growler to be filled or refilled.

c. The filling or refilling of a growler must be conducted in compliance with applicable state and federal food safety statutes and regulations.

1000.20(3) *Sealing conditions.* A filled or refilled growler must be securely sealed at the time of the sale by the licensee or permittee or the licensee's or permittee's employees in the following manner:

a. A growler must bear a cap, lid, stopper, or plug.

b. A plastic heat shrink wrap band, strip, or sleeve must extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer does not need a plastic heat shrink wrap band, strip, or sleeve.

c. The heat shrink wrap seal must be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.

1000.20(4) *Additional conditions.*

a. A growler filled pursuant to this rule cannot be delivered or direct-shipped to a consumer.

b. A growler filled pursuant to this rule cannot be sold or otherwise distributed to a retailer.

c. A licensee or permittee or a licensee's or permittee's employees are not to allow a consumer to fill or refill a growler.

d. The filling, refilling, and selling of a growler is limited to the hours in which alcoholic beverages may be legally sold.

e. A filled or refilled growler is not to be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

f. An original container may only be opened on the premises of a class "B" or class "E" retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule or for a tasting in accordance with rule 701—1003.6(123).

1000.20(5) *Violations.* Failure to follow this rule subjects the licensee or permittee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code section 123.31A.

701—1000.21(123) Filling and selling of wine and native wine in a container other than the original container. Class "B," class "C," special class "C," and class "E" retail alcohol licensees; special class "B" and special class "C" retail native wine licensees; and a licensee's employees may fill, refill, and sell wine or native wine in a container other than the original container, otherwise known as a growler, subject to Iowa Code sections 123.30, 123.31A, and 123.31B and this rule.

1000.21(1) *Definitions.*

"Growler," for the purposes of this rule, means any fillable and sealable glass, ceramic, plastic, aluminum, or stainless steel container designed to hold wine or native wine.

"Native wine," for the purposes of this rule, means the same as defined in Iowa Code section 123.3(36).

"Original container," for the purposes of this rule, means a vessel containing wine or native wine that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

"Wine," for the purposes of this rule, means the same as defined in Iowa Code section 123.3(53).

1000.21(2) *Filling and refilling conditions.*

a. A growler may be filled or refilled only with wine or native wine from the original container purchased from a class "A" wine permittee.

b. Special class "B" and special class "C" retail native wine licensees may fill a growler only with native wine.

c. A retailer may exchange a growler to be filled or refilled.

d. The filling or refilling of a growler must be conducted in compliance with applicable state and federal food safety statutes and regulations at all times.

1000.21(3) *Sealing conditions.* A filled or refilled growler must be securely sealed at the time of the sale by the licensee or the licensee's employees in the following manner:

a. A growler must bear a cap, lid, stopper, or plug.

b. A plastic heat shrink wrap band, strip, or sleeve must extend around the cap or lid or over the stopper or plug to form a seal that must be broken upon the opening of the growler. A lid permanently affixed with a can seamer does not need a plastic heat shrink wrap band, strip, or sleeve.

c. The heat shrink wrap seal must be so secure that it is visibly apparent when the seal on a growler has been tampered with or a sealed growler has otherwise been reopened.

1000.21(4) *Additional conditions.*

a. A growler filled pursuant to this rule is not allowed to be delivered or direct-shipped to a consumer.

b. A growler filled pursuant to this rule is not allowed to be sold or otherwise distributed to a retailer.

c. A licensee or a licensee's employees must not allow a consumer to fill or refill a growler.

d. The filling, refilling, and selling of a growler is limited to the hours in which alcoholic beverages may be legally sold.

e. A filled or refilled growler must not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

f. An original container may only be opened on the premises of a class "B" or class "E" retail alcohol licensee for the limited purposes of filling or refilling a growler as provided in this rule, or for a tasting in accordance with rule 701—1003.6(123).

1000.21(5) *Violations.* Failure to follow this rule subjects the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.31A, and 123.31B.

701—1000.22(123) Filling and selling of mixed drinks or cocktails in a container other than the original container. Class "C" retail alcohol licensees and the licensee's employees may fill and sell mixed drinks or cocktails in a container other than the original container subject to Iowa Code section 123.49(2)*"d"*(3) and this rule.

1000.22(1) *Definitions.*

"Alcoholic liquor," for the purposes of this rule, means the same as defined in Iowa Code section 123.3(5) and includes "native distilled spirits" as defined in Iowa Code section 123.3(34).

"Mixed drink or cocktail," for the purposes of this rule, means the same as defined in Iowa Code section 123.3(32).

"Original container," for the purposes of this rule, means a vessel containing alcoholic liquor that has been lawfully obtained and has been securely capped, sealed, or corked at the location of manufacture.

"Sealed container," for the purposes of this rule, means the same as defined in Iowa Code section 123.49(2)*"d"*(4)*"a."*

"Tamper-evident," for the purposes of this rule, means the same as defined in Iowa Code section 123.49(2)*"d"*(4)(b).

1000.22(2) *Filling conditions.*

a. A sealed container may be filled and sold only by the licensee or the licensee's employees who are 18 years of age or older.

b. A sealed container may be filled only upon receipt of an order by a consumer of legal age.

c. A sealed container may be filled only with mixed drinks or cocktails composed in whole or in part with alcoholic liquor from an original container purchased from a class "E" retail alcohol licensee.

d. The filling of a sealed container needs to be conducted in compliance with applicable state and federal food safety statutes and regulations at all times.

1000.22(3) *Sealing conditions.* A sealed container must bear one of the following tamper-evident sealing methods:

a. A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid to form a seal that must be broken when the sealed container is opened.

b. A screw top cap or lid that breaks apart when the sealed container is opened.

c. A vacuum- or heat-sealed pouch containing the mixed drink or cocktail.

d. A lid permanently affixed to the sealed container with a can seamer.

1000.22(4) *Labeling conditions.* A sealed container must bear a label affixed to the sealed container in a conspicuous place and legibly state the following information:

a. The business name of the licensee that sold the mixed drink or cocktail.

b. The words "CONTAINS ALCOHOL."

1000.22(5) *Additional conditions.*

a. A sealed container is not allowed to be filled in advance of a sale.

b. A licensee or a licensee's employees must not allow a consumer to fill a sealed container.

c. The filling and selling of a sealed container is limited to the hours in which alcoholic beverages may be legally sold.

d. A sealed container must not be sold to any consumer who is under legal age, intoxicated, or simulating intoxication.

1000.22(6) *Recordkeeping.*

a. A licensee must maintain records, in printed or electronic format, of all sales of sealed containers. The records shall state the following:

(1) The business name of the licensee that sold the mixed drink or cocktail.

(2) The date and time of the sale.

(3) A description of the product sold.

b. A licensee must keep the necessary records for a three-year period from the date the record was created.

c. Records must be open to inspection pursuant to Iowa Code section 123.30(1) and may be subject to an administrative subpoena issued by the director.

1000.22(7) *Violations.* Failure to follow this rule shall subject the licensee to the penalty provisions provided in Iowa Code chapter 123.

This rule is intended to implement Iowa Code sections 123.30, 123.33, and 123.49.

701—1000.23(123) Vending and self-service machines to dispense alcoholic beverages.

1000.23(1) *Vending machines.* A retail alcohol licensee is not allowed to install or permit the installation of vending machines on the licensed premises for the purpose of selling, dispensing, or serving alcoholic beverages. A vending machine is defined as a slug-, coin-, currency-, or credit card-operated mechanical device used for dispensing merchandise, including single cans of beer or other alcoholic beverages, and includes but is not limited to a mechanical device operated by remote control and used for dispensing single cans of beer or other alcoholic beverages. A vending machine is not a unit installed in individual hotel or motel rooms used for the storage of alcoholic beverages and intended for the personal use of hotel or motel guests within the privacy of the guests' rooms or a self-service machine registered and used consistent with this rule.

1000.23(2) *Self-service machines.* Retail alcohol licensees may utilize a self-service machine to dispense beer or wine as authorized under the licensee's retail alcohol license. Self-service machines are only authorized to operate on an approved retail alcohol licensed premises and shall not be operated under a catering privilege. For the purposes of this rule, "self-service machine" means any mechanical device capable of dispensing a preprogrammed amount of wine or beer, or both, directly to a consumer in exchange for a service card, wristband, or other token activated by the licensee and provided to the consumer.

a. A retail alcohol licensee seeking to use a self-service machine must register the machine with the department in a manner determined by the director at least 30 days prior to the date the licensee intends to begin use of the machine. The director will review the registration for compliance with the conditions of this rule and approve or disapprove the use of the self-service machine. A licensee must submit a new registration prior to implementing any change to the operational plan or capacity of the device. No self-service machine may be used without approval by the director.

b. The conditions for a retail alcohol licensee to use self-service machines to dispense beer or wine are as follows:

(1) At the time of sale, the retail alcohol licensee, or licensee's employees, must determine the consumer is of legal age and is not intoxicated or simulating intoxication.

(2) During operation, the retail alcohol licensee must adequately monitor the self-service machine so as to prevent the sale or service of beer or wine to persons who are under legal drinking age or are intoxicated or simulating intoxication.

(3) The sale of beer or wine, or both, and the corresponding activation of the service card, wristband, or other token to operate a self-service machine must be conducted in-person by the licensee directly with the consumer and cannot be automated at the machine. This condition includes reactivation of an already-issued service card, wristband, or other token for further use by a consumer.

(4) A self-service machine must not dispense a serving of more than 64 ounces of beer or 24 ounces of wine before reactivation of a service card, wristband, or other token is acquired by the licensee.

(5) A self-service machine must be programmed to automatically deactivate the service card, wristband, or other token after the programmed amount of beer or wine purchased by the consumer has been dispensed.

(6) Service cards, wristbands, or other tokens must be deactivated at the end of each business day. For purposes of this rule, a "business day" means 6 a.m. until 2 a.m. the following calendar day.

(7) A licensee, or the licensee's employees, must have the ability to deactivate a self-service machine and all associated service cards, wristbands, or other tokens remotely at all times.

This rule is intended to implement Iowa Code section 123.49.

701—1000.24(123) Delivery of alcoholic liquor. A person who does not work for the department may operate a delivery service in which the person charges class "E" retail alcohol licensees a fee for picking up the licensee's alcoholic liquor orders at the department's warehouse and delivering the orders to the licensee's licensed premises.

This rule is intended to implement Iowa Code sections 123.4 and 123.10(10).

701—1000.25(123) Prohibited storage of alcoholic beverages. Retail alcohol licensees may keep or store alcoholic beverages only on the licensed premises. However, the director may authorize the storage of alcoholic beverages on premises other than those covered by the license or permit. The director may allow class "D" retail alcohol licensees to store alcoholic beverages in a bonded warehouse to be consumed in Iowa.

This rule is intended to implement Iowa Code sections 123.4 and 123.10(11).

701—1000.26(123) Sale of alcoholic beverages stock when licensee sells business. When a retail alcohol licensee goes out of business, the licensee may sell the licensee's stock of alcoholic beverages to the person who is going to operate a licensed establishment in the same location.

This rule is intended to implement Iowa Code section 123.10.

701—1000.27(123) Execution and levy on alcoholic beverages. Judgments or orders requiring the payment of money or the delivery of the possession of property may be enforced against retail alcohol licensees, beer permittees, and wine permittees by execution pursuant to the provisions of Iowa Code chapter 626.

1000.27(1) *Definitions.*

"Debtor," for the purposes of this rule, means the same as defined in Iowa Code section 554.9102(1).

"Secured party," for the purposes of this rule, means the same as defined in Iowa Code section 554.9102(1).

1000.27(2) A secured party may take possession of and dispose of a retail alcohol licensee's or permittee's alcoholic beverages inventory in which the secured party has a security interest in such collateral pursuant to the provisions of Iowa Code chapter 554. The secured party may operate under the retail alcohol license or permit of its debtor for the purpose of disposing of the alcoholic beverages inventory. However, if the debtor is a class "E" retail alcohol licensee, the secured party cannot purchase alcoholic liquor from the department to continue to operate its debtor's business. A secured party

operating under the retail alcohol license or permit of its debtor shall dispose of the alcoholic beverages inventory by sale only to persons authorized under Iowa Code chapter 123 to purchase alcoholic beverages inventory from the debtor. When a secured party takes possession of a retail alcohol licensee's or permittee's alcoholic beverages inventory, the secured party must notify the department in writing of such action. A secured party must further inform the department of the manner in which it intends to dispose of the alcoholic beverages inventory and shall state the reasonable length of time in which it intends to operate under the retail alcohol license or permit of its debtor. The secured party must notify the department in writing when the disposition of its collateral has been completed, and the secured party must cease operating under the retail alcohol license or permit of its debtor.

1000.27(3) A sheriff or other officer acting pursuant to Iowa Code chapter 626 may take possession of a retail alcohol licensee's or permittee's alcoholic beverages inventory and may dispose of such inventory according to the provisions of Iowa Code chapter 626; however, the sheriff or other officer must sell the alcoholic beverages inventory only to those persons authorized by Iowa Code chapter 123 to purchase alcoholic beverages inventory from the retail alcohol licensee or permittee whose inventory is subject to the execution and levy. The sheriff or other officer must notify the department in writing at the time the sheriff or officer takes possession of a retail alcohol licensee's or permittee's alcoholic beverages inventory and must further notify the department of the time and place of the sale of such property.

This rule is intended to implement Iowa Code sections 123.4, 123.10, and 123.38.

701—1000.28(123) Dishonored payment for alcoholic liquor.

1000.28(1) If a class "E" retail alcohol licensee tenders payment for alcoholic liquor that is subsequently dishonored, the licensee will enter a certified funds status for a duration determined by the director. During the certified funds status period, the licensee will tender a bank draft in exact payment in advance of the licensee's alcoholic liquor delivery.

1000.28(2) The department may collect from the licensee a $20 fee for each dishonored payment for the purchase of alcoholic liquor.

1000.28(3) Any class "E" retail alcohol licensee that is enrolled in automatic license renewal and tenders payment for alcoholic liquor that is subsequently dishonored will be unenrolled from automatic license renewal.

This rule is intended to implement Iowa Code sections 123.4, 123.24, and 123.35.

701—1000.29(123) Violation by agent or employee. Any violation of the alcoholic beverage control Act or the rules of the department by any employee or agent of a licensee is considered to be the act of the licensee and subjects the licensee to civil penalty, suspension, or revocation.

This rule is intended to implement Iowa Code sections 123.4 and 123.49(2).

701—1000.30(123) Suspension of license or permit.

1000.30(1) *Suspensions by a local authority or the department.* At the time of a license or permit suspension, a placard furnished by the department must be placed in a conspicuous place in the front door or window of the licensed or permitted establishment. The placard must state that the license or permit is suspended, the suspension duration, and the reason for the suspension. No licensee or permittee may remove, alter, obscure, or destroy a suspension placard prior to an ordered suspension's expiration without the express written approval of the department.

1000.30(2) *Effect of suspension.* Alcoholic beverages must not be sold, served, or consumed on a licensed premises during a suspension period. A licensed premises may be open during a suspension period to conduct other lawful business during the suspension period. A retail alcohol licensee must not purchase alcoholic beverages from a wholesaler or the department during the suspension period.

This rule is intended to implement Iowa Code sections 123.4 and 123.39.

701—1000.31(123) Revocation or suspension. When the local authority revokes or suspends a retail alcohol license, the local authority must notify the department in writing stating the reasons for the revocation or suspension and, in the case of a suspension, the length of time of the suspension.

This rule is intended to implement Iowa Code sections 123.4, 123.32, and 123.39.

ARC 8725C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to alcohol product management and warehousing and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt Chapter 1001, "Alcohol Product Management and Warehousing," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 123.9, 123.10, 123.22 and 123.24.

Purpose and Summary

This proposed chapter is designed for alcoholic liquor suppliers to better understand the requirements surrounding listing, delisting, and maintaining alcoholic liquor product inventory in the state of Iowa. This content is currently under the Alcoholic Beverage Division's rules as 185—Chapter 8, and that chapter became outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 185—Chapter 8 is proposed to be rescinded. This rulemaking proposes to readopt the content of that chapter under the Department as 701—Chapter 1001. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language. The Department's bailment fee is also proposed to be adopted in this chapter to comply with Iowa Code section 17A.6C.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. Subrule 1001.4(3) has been added since publication of the Regulatory Analysis. This subrule addresses the Director's discretion on approved methods for product shipment deliveries to the Department and the possible result of noncompliance. As a result, the subsequent subrules were renumbered appropriately. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 4, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Madelyn Cutler
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.724.2924
Email: madelyn.cutler@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 10 to 11 a.m.	Via videoconference call meet.google.com/cec-wnfw-kxv
February 25, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/rxw-nuwh-sdj

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 1001:

CHAPTER 1001
ALCOHOL PRODUCT MANAGEMENT AND WAREHOUSING

701—1001.1(123) Definitions.

"Category" means the classification of an alcoholic liquor product, such as rum, vodka, or whiskey.

"Delist" means the removal of products from the department's product inventory.

"Department" means the department of revenue.

"Director" means the director of the department of revenue or the director's designee.

"Product" means stock keeping units of alcoholic liquor or native distilled spirits as defined in Iowa Code chapter 123.

"Supplier" means a manufacturer, distiller, or importer of alcoholic liquors or native distilled spirits shipping, selling, or having such alcoholic beverages brought into this state for resale by the department.

701—1001.2(123) Listing classifications. Each product available for sale by the department will be assigned to one of the following listing classifications. Suppliers may indicate their preferred listing classification; however, final determination will be made by the director.

1001.2(1) *Permanent.* Products with a permanent listing will be available for sale by the department on an ongoing basis, unless otherwise delisted or temporarily out of stock.

1001.2(2) *Temporary.* Temporary listings will have a duration determined by the director and may be extended at the discretion of the director.

1001.2(3) *Size extension.* A supplier must submit a product quote for each additional size of a product that is currently listed for sale. All listed sizes of the product should meet sales criteria established by the director in order for a size extension product quote to be approved as a permanent listing.

1001.2(4) *Special order.* Products that are not currently listed for sale by the department may be purchased through a special order placed with the supplier of the product.

a. A request for a special order will be placed with the department by a class "E" retail alcohol licensee. Special order requests may be submitted electronically or in a manner prescribed by the director. The director may reject a special order request if it is determined that the requested product is in violation of the requirements set out in paragraph 1001.3(3)*"a."*

b. If the department accepts a special order request, the request will be forwarded on to the supplier of the product. The supplier may approve or deny the special order request.

c. Special order products may only be sold and distributed by the department to class "E" retail alcohol licensees by the case.

d. Special order products are not eligible for return to the department by a class "E" retail alcohol licensee without approval from the director.

1001.2(5) *Special order on hand.* Products that are frequently sold as special orders may be listed as special order on hand.

a. To be eligible for classification as a special order on-hand listing, a product must have been previously sold as a special order and meet sales criteria established by the director.

b. Products that have been delisted are not eligible to be moved from permanent listing to special order on-hand listing.

1001.2(6) *Highly allocated.* Highly allocated products are products of a limited supply as determined by the supplier.

a. Highly allocated products may be sold via a lottery system as deemed necessary by the director.

b. Highly allocated products are not available for sale as special orders.

1001.2(7) *Quantity limitations.* Quantities of listed products available for purchase by class "E" retail alcohol licensees may be limited at the director's discretion.

701—1001.3(123) Product quote listing requests. The supplier of a product to be sold by the department must submit a product quote for consideration by the director.

1001.3(1) *Submitting a product quote.* Product quotes must be submitted electronically or in a manner prescribed by the director.

1001.3(2) *Product quote requirements.*

a. A complete product quote contains the following information:

(1) A control state code number for the product issued by the National Alcohol Beverage Control Association.

(2) The supplier's freight on board (FOB) cost per case. The case price needs to be evenly divisible by the number of bottles in the case. The supplier determines the number of bottles that form a case for the product.

(3) The product's case quantity size and standard of fill.

(4) An image of the product.

(5) A brief description of the product.

(6) The weights and dimensions of the product container, case, and pallet.

(7) The product's 14-digit shipping container code.

(8) The product's universal product code.

(9) Any other information deemed necessary by the director.

b. The director may require a supplier to conduct a listing presentation for products to become listed.

1001.3(3) *Decisions.*

a. The criteria used to determine whether a product quote may be approved or denied will include but not be limited to the following:

(1) Whether the product violates the code of responsible practices established by the Distilled Spirits Council of the United States.

(2) The reasonable potential of the product to unduly jeopardize the welfare, health, peace, morals, or safety of the people of the state.

b. The director shall approve or deny a product quote not more than 20 business days from the date the product quote was submitted or the listing presentation was held, as applicable. Suppliers will be notified of the decision in writing delivered electronically or in a manner prescribed by the director.

1001.3(4) *Appeal to the director.*

a. A supplier may appeal the denial of a product quote to the director. A notice of appeal needs to be filed within 30 calendar days of the date of denial.

b. A notice of appeal must be in writing and must specify the findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

c. A notice of appeal will be considered filed at the time it is received by the director.

d. The director shall affirm, reverse, or modify the denial of the product quote and shall notify the supplier of the decision in writing.

e. The director's decision constitutes final agency action for the purposes of Iowa Code chapter 17A.

1001.3(5) *Resubmission of a product quote.* If a product quote is denied, the supplier may submit a new request three months after the original request denial date.

1001.3(6) *Moratorium.* The director may implement a moratorium on new permanent listing product quotes and determine the duration period. The director may allow a supplier to trade out a permanently listed product for a new product during a moratorium period.

701—1001.4(123) Shipment of product to the department. Shipments of product intended for sale by the department may only be made in accordance with this rule.

1001.4(1) *Product shipments into the state.* Product shipments may only be made into the state of Iowa by suppliers.

1001.4(2) *Product shipment locations.* Product shipments may only be made to a state warehouse or to receiving points designated by the director.

1001.4(3) *Product shipment deliveries.* Product shipments may only be delivered by methods as determined by the director. Shipments that do not adequately meet the delivery requirements may be refused upon arrival.

1001.4(4) *Pallet requirements.*

a. The department will only accept products shipped on securely stretch-wrapped pallets that are in good repair.

b. The department will not accept any products shipped on slip sheets. Suppliers will be notified by the department to make arrangements to pick up product shipped on slip sheets.

c. The department will not accept pallets that contain multiple product stock keeping units not separated by a pallet layer.

d. The director may establish additional requirements as deemed necessary.

1001.4(5) *Case labeling requirements.*

a. Each case of product shipped to the department must include a case code label placed on an end panel of the case.

b. The case code label needs to contain the following information:

(1) The control state code number issued by the National Alcohol Beverage Control Association for the product.

(2) The product's universal product code and corresponding barcode.

(3) The 14-digit shipping container code and corresponding barcode. The shipping container code and barcode needs to meet the minimum requirements established by the American National Standards Institute and the International Organization for Standardization.

(4) Any other information deemed necessary by the director.

1001.4(6) *Bottle deposit requirements.*

a. All products intended for resale by the department must meet the requirements of Iowa Code section 455C.5 and rule 567—107.3(455C). Products that do not meet the requirements will not be made available for sale until the requirements are met.

b. Suppliers may purchase bottle deposit refund stickers from the department. The cost of the stickers to suppliers cannot exceed the department's cost of producing and distributing the stickers.

1001.4(7) *Product shipment special handling charges.* Product shipments that do not meet the requirements of subrule 1001.4(4), 1001.4(5), or 1001.4(6) will result in the assessment of special handling charges against the supplier. The amount of charges will not exceed the department's actual cost to bring the shipments into compliance. The department's actual cost is determined using the negotiated hourly rate of the third party the department has contracted with for warehousing services.

701—1001.5(123) Importation of product into the state for manufacturing purposes. Shipments of product intended for manufacturing purposes may only be made in accordance with this rule.

1001.5(1) *Product shipments into the state.* Product shipments may only be made into the state of Iowa by suppliers with an appropriate certificate of compliance to manufacturers who have obtained prior approval from the director.

1001.5(2) *Product shipment locations.* Product shipments may only be made to a state warehouse or to receiving points designated by the director.

1001.5(3) *Recordkeeping.* All records related to the importation of product into the state will be maintained on the licensed premises for a period of three years and must be open to inspection pursuant to Iowa Code section 123.33. In accordance with Iowa Code sections 123.98 and 123.101, records will include all product received for each supplier, date received, and an accounting of disposition of all product received.

701—1001.6(123) Inventory levels. The director will establish maximum and minimum inventory levels for each listed product. The director may adjust the maximum and minimum inventory levels.

1001.6(1) *Purchase orders.* Suppliers shall submit purchase orders to the department to maintain proper inventory levels. Purchase orders will be submitted electronically or in a manner prescribed by the director.

1001.6(2) *Maximum inventory levels.* The department will contact suppliers with product exceeding maximum inventory levels to have the supplier pick up the excess inventory.

1001.6(3) *Maximum inventory level exception.* A supplier may request from the department an exception to the established maximum inventory level for a product. Requests for a maximum inventory level exception will be submitted to the department electronically or in a manner prescribed by the director. The director will approve or deny the request and notify the supplier of the decision electronically or in a manner prescribed by the director.

701—1001.7(123) Pricing.

1001.7(1) *Permanent price changes.* Suppliers may make permanent price changes to the case cost of products in any listing classification.

a. The frequency at which permanent price changes may be made will be determined by the director.

b. Permanent price changes shall be submitted electronically, or in a manner prescribed by the director, at least 20 business days prior to the effective date.

1001.7(2) *Temporary price reductions.* Suppliers may make temporary price reductions to the case cost of products with a permanent or temporary listing classification.

a. Products with a listing classification of special order, special order on hand, or highly allocated are not eligible for temporary price reductions.

b. Temporary price reductions will become effective as determined by the director.

c. Temporary price reductions will be submitted electronically, or in a manner prescribed by the director, at least 20 business days prior to the effective date.

1001.7(3) *Price lists.* The department shall publish a price list electronically on a monthly basis showing the price to be paid by class "E" retail alcohol licensees for each brand, variety, and category of product available for sale by the department. The price list will be published on the department's website at shop.iowaabd.com and may be distributed to class "E" retail alcohol licensees as deemed necessary by the director.

701—1001.8(123) Delisting. Listed products that do not meet sales guidelines established by the director may be delisted. The frequency of delisting is determined by the director.

1001.8(1) *Notification.* The director must notify suppliers of the decision to delist a product. The suppliers will be notified of the decision in writing electronically or in a manner prescribed by the director.

1001.8(2) *Appeal to the director.*

a. A supplier may appeal the delisting of a product to the director. A notice of appeal needs to be filed within 30 calendar days of the date of delisting notification.

b. A notice of appeal shall specify the findings or conclusions to which exception is taken, the relief sought, and the grounds for relief.

c. A notice of appeal shall be considered filed at the time it is received by the director.

d. The director shall affirm, reverse, or modify the delisting and shall notify the supplier of the decision in writing.

e. The director's decision constitutes final agency action for the purposes of Iowa Code chapter 17A.

1001.8(3) *Removal of delisted products.*

a. Delisted products shall be removed from the department's warehouse by the supplier or by the supplier's agent within a time frame established by the director.

b. A supplier may authorize the department to destroy a delisted product in lieu of removal of the product by the supplier from the department's warehouse.

c. New product quotes submitted by a supplier will not be considered by the department until all of the supplier's delisted product has been removed from the department's warehouse.

1001.8(4) *Resubmission of a delisted product for listing.* If a product in a permanent listing classification is delisted, a new product quote for the product may be submitted not less than six months after the date the product was removed from the warehouse.

701—1001.9(123) Barrel programs. A supplier may offer a barrel program, allowing a class "E" retail alcohol licensee to purchase the bottled contents of a barrel-aged product along with the aging barrel.

1001.9(1) Barrel programs must be uniformly offered to all class "E" retail alcohol licensees.

1001.9(2) Suppliers may sample barrel-aged products pursuant to rule 701—1003.7(123).

1001.9(3) Barrel program products shall be classified as special orders.

1001.9(4) Products purchased as part of a barrel program must be sold and delivered to the class "E" retail alcohol licensee that placed the special order. Barrel program products must not be split between two or more class "E" retail alcohol licensees.

1001.9(5) Aging barrels sold in conjunction with a barrel program must bear conspicuous and substantial advertising matter.

1001.9(6) Bottles from a barrel program may bear customized labels.

701—1001.10(123) Bailment system. Suppliers are paid for their product once it is sold by the department to class "E" retail alcohol licensees.

1001.10(1) *Bailment agreement.* A supplier shall consent to the department's bailment system by signing a bailment agreement prior to listing a product for sale in Iowa.

1001.10(2) *Bailment fee.* The department shall charge suppliers a bailment fee in the amount of $1 per case of product sold or in a corresponding rate for the portion of a case sold.

These rules are intended to implement Iowa Code sections 123.10(2), 123.10(3), 123.10(6), 123.10(10), and 123.22.

ARC 8724C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to personal importation of alcoholic beverages and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt Chapter 1002, "Personal Importation of Alcoholic Beverages," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code section 123.10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 123.10, 123.22, 123.59, 123.122 and 123.171.

Purpose and Summary

This proposed chapter describes the requirements surrounding the procedures for the issuance of a waiver for an individual of legal age desiring to import alcoholic beverages in excess of the amount provided in Iowa Code sections 123.22, 123.122, and 123.171. This content is currently under the Alcoholic Beverage Division's rules as 185—Chapter 9, and that chapter became outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 185—Chapter 9 is proposed to be rescinded. This rulemaking proposes to readopt the content of that chapter under the Department as 701—Chapter 1002. Additionally, this rulemaking is intended to make the changes required by Executive Order 10 to remove portions of the rules that the Department determined are unnecessary, outdated, or duplicative of statutory language.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made to the text after publication of the Regulatory Analysis. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Madelyn Cutler
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.724.2924
Email: madelyn.cutler@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 10 to 11 a.m.	Via videoconference call meet.google.com/cec-wnfw-kxv
February 25, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/rxw-nuwh-sdj

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 1002:

CHAPTER 1002
PERSONAL IMPORTATION OF ALCOHOLIC BEVERAGES

701—1002.1(123) Tax liability. The requester has the sole responsibility to ensure that all tax obligations to the department are met. Tax worksheet 32-007 found at revenue.iowa.gov/forms must be accurately completed and sent to the department as instructed.

701—1002.2(123) Personal importation in excess of the amounts provided—waiver. Persons seeking a waiver to import alcohol pursuant to Iowa Code section 123.10(13) must submit a completed and accurate personal importation form provided at revenue.iowa.gov/forms.

1002.2(1) *Domicile.* Domicile, for the purposes of establishing when an individual is "domiciled outside the state," shall be determined in accordance with rule 701—300.17(422).

1002.2(2) *Additional information.* Prior to granting or denying a request for a waiver, the department may request additional information from the requester relative to the request and surrounding circumstances and may conduct an investigation as the director deems necessary to verify the accuracy of the information.

1002.2(3) *Ruling.* A letter granting or denying a request for a waiver to import alcoholic beverages in excess of the amount provided in Iowa Code section 123.22, 123.122, or 123.171 shall be in writing and contain a description of the precise scope and duration of the waiver if one is issued.

1002.2(4) *Duration of waiver.* A waiver issued pursuant to this rule shall allow only for the importation of the inventory of alcoholic beverages detailed on the request for import authorization form. If a waiver is granted, there is no automatic right to renewal.

1002.2(5) *Public availability.* The department shall maintain a record of all waivers granted or denied under this rule. Waiver forms and rulings shall be open to the public; information that the department is authorized or required to keep confidential shall be edited prior to public inspection.

1002.2(6) *Cancellation.* A waiver issued by the department pursuant to this rule may be withdrawn, canceled, or modified if, after appropriate notice, the department finds any of the following:

a. The requester withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or

b. The recipient of the waiver failed to comply with any of the conditions contained in the waiver.

1002.2(7) *Violations.* Violation of a condition in a waiver is equivalent to a violation of Iowa Code section 123.10, 123.22, 123.122, or 123.171, as applicable. The recipient of a waiver under this rule who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the applicable Iowa Code section.

1002.2(8) *Defense.* After the department grants a waiver under this rule, the waiver is a defense within its terms and the specific facts indicated therein for the recipient of the waiver in any proceedings in which the waiver in question is sought to be invoked.

1002.2(9) *Appeals.* Granting or denying a request for a waiver is final agency action under Iowa Code chapter 17A.

These rules are intended to implement Iowa Code sections 123.10, 123.22, 123.59, 123.122, and 123.171.

ARC 8723C

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rulemaking related to trade practices and providing an opportunity for public comment

The Revenue Department hereby proposes to adopt Chapter 1003, "Trade Practices," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 123.10 and 123.186.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 123.10, 123.45, and 123.186.

Purpose and Summary

This proposed chapter describes the regulations that govern allowable and prohibited trade practice activity among alcohol manufacturers, wholesalers, and retailers in the areas of tied house, exclusive outlets, commercial bribery, and consignment sales. This chapter was recently amended in **ARC 7028C**, IAB 5/31/23; therefore, very few changes have been made in this proposed rulemaking. However, this content is currently under the Alcoholic Beverages Division's rules as 185—Chapter 16, and that existing chapter became outdated upon implementation of the government realignment in 2023 Iowa Acts, Senate File 514. In a separate rulemaking, 185—Chapter 16 is proposed to be rescinded. This rulemaking proposes to readopt the content of that chapter under the Department as 701—Chapter 1003.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on November 13, 2024. A public hearing was held on the following date(s):

- December 3, 2024

No public comments on the Regulatory Analysis were received at the hearing or in writing. No changes have been made after publication of the Regulatory Analysis. The Administrative Rules Coordinator provided preclearance for publication of this Notice of Intended Action on December 10, 2024.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on February 25, 2025. Comments should be directed to:

Madelyn Cutler
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306-3457
Phone: 515.724.2924
Email: madelyn.cutler@iowa.gov

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

February 25, 2025 10 to 11 a.m.	Via videoconference call meet.google.com/cec-wnfw-kxv
February 25, 2025 2 to 3 p.m.	Via videoconference call meet.google.com/rxw-nuwh-sdj

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

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

Review by Administrative Rules Review Committee

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

The following rulemaking action is proposed:

ITEM 1. Adopt the following **new** 701—Chapter 1003:

CHAPTER 1003
TRADE PRACTICES

The rules in this chapter, adopted pursuant to Iowa Code section 123.186, apply to transactions between industry members, trade buyers and retailers. The rules specify practices considered to be fair and allowable as well as practices deemed to be unfair or inducements. This chapter does not exempt any industry member, trade buyer or retailer from the requirements of any federal law or regulation.

PART I

As used in this chapter, the words, terms and phrases defined in this part shall apply, unless a different meaning is clearly indicated by the context.

701—1003.1(123) Definitions.

"Alcoholic liquor" means the same as defined in Iowa Code section 123.3(4). For the purposes of this chapter, "alcoholic liquor" includes "native distilled spirits" as defined in Iowa Code section 123.3(34).

"Beer" means the same as defined in Iowa Code section 123.3(6). For the purposes of this chapter, "beer" includes "canned cocktail" as defined in Iowa Code section 123.3(10) and "high alcoholic content beer" as defined in Iowa Code section 123.3(22).

"Brand" means each alcoholic liquor, wine, or beer packaged and sold under a separate name, class, type, or kind designation (wine appellation of origin, wine vintage date, alcoholic liquor age, percentage of alcohol, etc.).

"Department" means the department of revenue.

"Equipment" includes but is not limited to mechanized and nonmechanized refrigeration units and devices used in the storage, dispensing, and cooling of alcoholic liquor, wine and beer, tap boxes, party wagons, dispensing systems, and shelving. Equipment does not include tapping accessories (including faucets, rods, vents, taps, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves, and picnic pumps) that are used in dispensing wine or beer from kegs or bulk packaging.

"Exclusion," in whole or in part, means a practice by an industry member, whether direct, indirect, or through an affiliate, that places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer, and such practice results in the retailer's purchasing less than it would have of a competing industry member's product. The following criteria are indications that a particular practice places retailer independence at risk. A practice need not meet all of the criteria specified below in order to place retailer independence at risk.

1. The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase or the quantity in which to purchase them for sale to consumers.

2. The industry member obligates the retailer to participate in a promotion to obtain the industry member's product.

3. The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

4. The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

5. The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

6. The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

"Fixtures" includes but is not limited to bar sinks, bars, light fixtures, and indoor or outdoor signs used to identify the retail establishment.

"Furnishings" includes but is not limited to money, services, chairs, tables, lamps, pictures, remodeling costs, bar sinks, carpeting, bar stools, display cabinets and curios, linens, linen services, china and silver or stainless steel eating and other utensils, decorations, and sound systems used by a retailer. (Durable and disposable glassware is addressed in rule 701—1003.4(123).)

"Furnishings, fixtures and equipment" does not include the items identified in rule 701—1003.2(123), subrules 1003.3(1) and 1003.3(2), rule 701—1003.4(123), rule 701—1003.5(123), rule 701—1003.6(123), or paragraph 1003.12(2)*"a."*

"Industry member" means an alcoholic beverages manufacturer, including a distiller, vintner or brewer, bottler, importer, wholesaler, representative, broker, agent, officer, director, shareholder not considered an institutional investor as defined in Iowa Code section 123.3(27), partner or employee of each of the above.

"Product" means alcoholic liquor, wine, or beer as defined in Iowa Code chapter 123.

"Retailer" means the holder of an alcoholic beverages license, agents, officers, directors, shareholders not considered institutional investors as defined in Iowa Code section 123.3(27), partners, and employees who sell alcoholic liquor, wine or beer to consumers for consumption on or off the premises of the licensee.

"Sampling" means the practice of industry members giving product to a retailer for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

"Tasting" means the presentation and serving of a product by industry members or retailers to consumers for the purpose of market research, education, promotion of the product, or determination of the flavor of the product.

"Trade buyer" means a person who is a wholesaler or retailer of alcoholic liquor, wine, or beer.

"Trade spending" means the practice of industry members promoting their brand by purchasing alcoholic beverages for consumers where alcoholic beverages are sold and served for on-premises consumption.

"Wine" means the same as defined in Iowa Code section 123.3(53). For the purposes of this chapter, "wine" includes "native wine" as defined in Iowa Code section 123.3(36).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

PART II

The rules in this part specify industry member practices that are allowed under the conditions and within the limitations prescribed. The rules apply to transactions between industry members and retailers.

701—1003.2(123) Product displays.

1003.2(1) Except as otherwise provided in this rule, an industry member is prohibited, directly or indirectly, from inducing a retailer to purchase any products from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other industry members by any of the following means:

a. Renting, leasing, or buying display space from a retailer.

b. Paying a retailer to set up a display.

c. Giving a special price on the products featured in the display or other products sold by the industry member.

d. Providing free merchandise to a retailer in return for a display.

1003.2(2) An industry member may give, furnish, sell, rent or loan product displays, such as wine racks, bins, barrels, casks and portable, disposable shelving from which alcoholic beverages are displayed and sold, provided that the product display bears conspicuous and substantial advertising matter on the product or the industry member that is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product display. A product display is prohibited if it has secondary value to the retailer, for other than advertising purposes. An industry member is prohibited from requiring a retailer to purchase a specific quantity of alcoholic liquor, wine or beer in order to receive a product display.

1003.2(3) The total value of all product displays may not exceed $300 per brand at any one time in any one retail establishment. The value of the product display is the industry member's original cost of the item.

1003.2(4) Industry members may not pool or combine their dollar limitations in order to provide a retailer with a product display that exceeds $300. Industry members are prohibited from pooling or combining several brands to provide a retailer with a product display that exceeds $300.

1003.2(5) An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code section 123.186.

701—1003.3(123) Retailer advertising utensils, consumer advertising specialties, and retailer wearing apparel.

1003.3(1) *Retailer advertising utensils.*

a. An industry member may supply, give, or sell retailer advertising utensils that are primarily valuable as point-of-sale advertising intended for use on the premises of the retail establishment. Such materials include but are not limited to posters, placards, designs, inside signs (electric, mechanical or otherwise), billboards, window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

b. All retailer advertising utensils must bear conspicuous and substantial advertising matter about the product or the industry member that is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point-of-sale advertising materials.

c. An industry member shall not pay or credit a retailer, directly or indirectly, for using retailer advertising utensils or for any expense incidental to their use.

1003.3(2) *Consumer advertising specialties.*

a. An industry member may furnish, give, or sell consumer advertising specialties to a retailer for unconditional distribution by the retailer to consumers. Consumer advertising specialties may include such items as nonalcoholic mixers, bottle or can openers, corkscrews, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, pens or pencils, shirts, caps, and visors.

b. Consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member that is permanently inscribed or securely affixed.

c. An industry member shall not pay or credit a retailer, directly or indirectly, for distributing consumer advertising specialties or for any expense incidental to their use. There is no dollar limitation on consumer souvenirs.

d. In the event a consumer advertising specialty also advertises a local event not sponsored by the retailer, the consumer advertising specialty need only be offered by the industry member to the retailers within the local community where the event is held.

1003.3(3) *Retailer wearing apparel.* An industry member may sell wearing apparel, including sweatshirts, T-shirts, pants, shorts, hats, caps, polo-type shirts, jackets, jerseys and other similar clothing,

that bears substantial permanently affixed advertising identifying the industry member's name or products to a retailer for use by the retailer and the retailer's employees at not less than the industry member's laid-in cost of the items. There is no dollar limitation on wearing apparel that may be sold by an industry member to a retailer.

1003.3(4) *Recordkeeping.* An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.4(123) Glassware.

1003.4(1) *Disposable beer or wine glassware.*

a. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell disposable glassware (including foam, paper and one-use plastic cups) to a retailer.

b. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable glassware.

1003.4(2) *Commemorative beer or wine glassware.*

a. An industry member engaged in the manufacturing or wholesaling of beer or wine may sell commemorative glassware that bears substantial advertising matter identifying the industry member or the industry member's product to off-premises retailers for resale to consumers.

b. An industry member engaged in the manufacturing or wholesaling of beer or wine is prohibited from selling commemorative glassware to off-premises retailers at less than the industry member's laid-in cost.

1003.4(3) *Durable or disposable alcoholic liquor glassware.*

a. An industry member engaged in the manufacturing or wholesaling of alcoholic liquor may sell durable or disposable (including foam, paper or one-use plastic cups) glassware to a retailer. The glassware must bear advertising matter that identifies the industry member or the industry member's product.

b. An industry member engaged in manufacturing or wholesaling alcoholic liquor is prohibited from selling durable or disposable glassware to a retailer at less than the industry member's laid-in cost of the disposable or durable glassware.

1003.4(4) *Recordkeeping.* An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.5(123) Tapping accessories and coil cleaning service.

1003.5(1) *Tapping accessories.*

a. An industry member may sell tapping accessories, identified in rule 701—1003.1(123), and carbon dioxide to a retailer at not less than the industry member's laid-in cost.

b. An industry member may install tapping accessories at a retail establishment provided the retailer bears the cost of initial installation.

1003.5(2) *Coil cleaning service.* An industry member may sell, furnish or give wine and beer coil cleaning services, including carbon dioxide filters and other necessary accessories to properly clean the coil and affix carbon dioxide filters, to a retailer. The manufacturer shall be responsible for paying for the costs if carbon dioxide filters are provided.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.6(123) Tasting.

1003.6(1) *Restrictions.*

a. The amount of product served per person during a tasting shall be limited to the following:

(1) No more than two one-half-of-one-fluid-ounce tastes of any brand of alcoholic liquor.

(2) No more than two one-fluid-ounce tastes of any brand of wine.

(3) No more than two two-fluid-ounce tastes of any brand of beer.

(4) No more than two two-fluid-ounce tastes of a mixed drink or cocktail as defined in Iowa Code section 123.3.

b. Product shall not be served to, or allowed to be consumed by, any consumer who is under legal age, intoxicated, or simulating intoxication.

c. Product served during a tasting shall not be served by persons under 18 years of age.

d. Product served by an industry member shall be limited to the brands the industry member represents.

1003.6(2) *Tastings conducted by an industry member.* An industry member may conduct a tasting on licensed and unlicensed premises, subject to the requirements and restrictions provided in this rule.

a. Licensed premises.

(1) A tasting may be conducted on licensed premises where alcoholic beverages are sold or served.

(2) A tasting shall be limited to the types of alcoholic beverages available for purchase as authorized by the license or permit.

(3) A tasting shall be held during the hours in which alcoholic beverages may be legally sold or served.

(4) An industry member may provide snack foods or hors d'oeuvres for the participants at the tasting.

(5) Product or food served during a tasting shall either be provided by the industry member or purchased at no more than the ordinary retail price from the license or permit holder on whose premises the tasting is being held.

(6) Any product or food remaining at the end of a tasting shall be removed from the licensed premises by the industry member.

b. Unlicensed premises.

(1) A tasting of wine or beer may be conducted in an unlicensed public place unless prohibited by Iowa Code section 123.46(2) or an applicable ordinance or regulation of the local authority.

(2) A tasting of alcoholic liquor, wine, or beer may be conducted in an unlicensed private place as defined in Iowa Code section 123.3.

(3) A tasting of alcoholic liquor is prohibited in an unlicensed public place.

(4) Wine and beer served during a tasting shall be obtained from the respective wholesaler.

(5) An industry member may provide snack foods or hors d'oeuvres for the participants at the tasting.

(6) Any product or food remaining at the end of a tasting shall be removed from the premises by the industry member.

1003.6(3) *Tastings conducted by a retailer.* A retailer licensed or permitted for on- or off-premises consumption may conduct a tasting, subject to the requirements and restrictions provided in this rule.

a. Product served during a tasting shall be served by a retailer, the retailer's employees or agents, or an industry member who has the explicit consent of the retailer.

b. A tasting shall be limited to the types of alcoholic beverages available for purchase as authorized by the license or permit.

c. A tasting shall be held during the hours in which alcoholic beverages may be legally sold or served.

d. Product served during a tasting shall be legally obtained by the retailer as prescribed by Iowa Code chapter 123.

e. An off-premises license holder may conduct a tasting when there is no charge for product or access.

f. Food may be provided by the retailer for the participants of a tasting.

1003.6(4) *Recordkeeping.* An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code section 123.186.

701—1003.7(123) Sampling.

1003.7(1) *Conditions.* An industry member may give product to a retailer who has not purchased the brand from that industry member within the preceding 12 months.

1003.7(2) *Quantity.* Product given to a retailer shall not exceed the following amounts within a calendar year.

a. Three liters of any brand of alcoholic liquor.

b. Three liters of any brand of wine.

c. Three gallons of any brand of beer.

1003.7(3) *Procurement.* An industry member shall obtain alcoholic liquor, wine, or beer used for sampling from the respective wholesaler. If a particular product is not available in a size within the quantity limitations of this section, an industry member may provide to a retailer the next larger size.

1003.7(4) *Identification.* Each container of product used for sampling shall be clearly marked with the word "SAMPLE". The marking shall not obscure the label of the container.

1003.7(5) *Recordkeeping.* An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code section 123.186.

701—1003.8(123) Trade spending. An industry member may engage in the practice of trade spending.

1003.8(1) *Advertising.* Trade spending shall be unannounced and unpublicized.

1003.8(2) *Quantity.* The industry member shall be limited to purchasing one round of alcoholic beverages or nonalcoholic beverages for patrons of an on-premises retailer.

1003.8(3) *Payment.* The industry member shall pay the retailer no more than the ordinary retail price for the alcoholic beverage or nonalcoholic beverage.

1003.8(4) *Recordkeeping.* An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code section 123.186.

701—1003.9(123) Discounts. An industry member is prohibited from refusing to give a retailer a discount that is offered to other retailers in the market area, even though the retailer declines to reduce the price to the consumer during the discount period, or to advertise the industry member's product during the promotion period.

This rule is intended to implement Iowa Code sections 123.135(4) and 123.180(4).

701—1003.10(123) Combination packaging. An industry member may package and distribute alcoholic liquor, wine, or beer in combination with other nonalcoholic items or products.

1003.10(1) Combination packages shall not have secondary value to the retailer other than having the potential of attracting purchasers and promoting sales.

1003.10(2) Combination packages shall be designed to be delivered intact to the consumer.

1003.10(3) Industry members who sell alcoholic liquor to the department must comply with the department's policies regarding combination packaging.

This rule is intended to implement Iowa Code section 123.186.

701—1003.11(123) Consumer promotions.

1003.11(1) *Coupons.* The act by an industry member of furnishing to consumers coupons that are redeemable at a retail establishment does not constitute a means to induce provided the following conditions are met:

a. All retailers within the market where the coupon offer is made may redeem such coupons.

b. An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

1003.11(2) *Direct offerings.* Contest prizes, premium offers, refunds, and like items may be offered by industry members directly to consumers. Officers, employees, and representatives of wholesalers or retailers are excluded from participation.

This rule is intended to implement Iowa Code section 123.186.

701—1003.12(123) Advertising, display or distribution service.

1003.12(1) *Prohibition.* The act of an industry member paying or crediting a retailer, directly or indirectly, for any advertising, display, or distribution service is prohibited if the act results in exclusion. Such acts include but are not limited to the following:

a. Making payments or credits to retailers that are merely reimbursements, in full or in part, for such services purchased by a retailer from a third party.

b. Directly or indirectly sharing the cost of an advertisement with a retailer.

c. Purchasing advertising from a retailer on such things as but not limited to signs, scoreboards, programs, scorecards, and tote boards in ballparks, stadiums, auditoriums, racetracks, arenas, bowling alleys and all other retail establishments.

d. Purchasing advertising in a retailer publication for distribution to consumers or the general public.

e. Providing reimbursements to retailers for setting up product or other displays.

f. Paying the retailer via a promotion where the industry member rents display space at a retail establishment.

1003.12(2) *Exceptions.*

a. Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be given or sold by an industry member to a retailer selling the industry member's products.

b. An industry member may list the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of that industry member provided all of the following conditions are met:

(1) The advertisement does not also contain the retail price of the product.

(2) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole.

(3) The advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.13(123) Stocking and product rotation.

1003.13(1) *Allowable activities.*

a. An industry member may stock, rotate, and reset alcoholic liquor, wine or beer sold by the industry member.

b. An industry member may affix prices to alcoholic liquor, wine or beer sold by the industry member at the time of delivery, provided that the retailer independently determines the price of the alcoholic liquor, wine and beer.

c. An industry member may build product displays either at the time of delivery or at other times.

d. An industry member may provide a retailer with a recommended shelf plan or shelf schematic for alcoholic liquor, wine, and beer.

1003.13(2) *Prohibited activities.*

a. An industry member may not reset or rearrange another industry member's products without the explicit consent of the retailer.

b. An industry member is prohibited from removing another industry member's point-of-sale advertising matter.

This rule is intended to implement Iowa Code section 123.186.

701—1003.14(123) Sponsorships and special events.

1003.14(1) An industry member may contribute to charitable, civic, religious, fraternal, educational and community entities.

1003.14(2) If such entity is conducting a special event as a retailer or in conjunction with a retailer, an industry member's contribution shall not induce the retailer, directly or indirectly, to purchase any products from the industry member to the exclusion, in whole or in part, of products sold or offered for sale by other industry members at the special event.

1003.14(3) An industry member shall keep and maintain records in accordance with rule 701—1003.16(123).

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.15(123) Participation in educational seminars and retail association activities.

1003.15(1) *Educational seminars.* An industry member may give or sponsor educational seminars for employees of retailers either at the industry member's premises or at the retail establishment regarding such topics as use of a retailer's equipment, training seminars for employees of retailers, and tours of alcoholic beverages manufacturing facilities; however, an industry member is prohibited from paying a retailer's expenses or compensating a retailer for attending such seminars and tours.

1003.15(2) *Retail association activities.* An industry member may participate in retail association activities in the following manner:

a. Display its products at a trade show or convention.

b. Rent display booth space provided that the rental fee is not excessive and is the same paid by all exhibitors.

c. Provide hospitality for the persons attending the trade show or convention. The hospitality provided by the industry member shall be independent from association-sponsored activities.

d. Purchase tickets, attend functions, and pay registration fees, provided that such payments are not excessive and are the same paid by all exhibitors.

e. Pay for advertising in programs or brochures issued by retail associations at a convention or trade show, provided that the total payments made by an industry member do not exceed $300 per calendar year to any one retail association.

This rule is intended to implement Iowa Code section 123.186.

701—1003.16(123) Recordkeeping.

1003.16(1) Industry members are required to keep and maintain accurate records for a three-year period regarding each of the items that may be provided to retailers in the following rules:

a. 701—1003.2(123) (product displays).

b. 701—1003.3(123) (retailer advertising utensils, consumer advertising specialties, and retailer wearing apparel).

c. 701—1003.4(123) (glassware).

d. 701—1003.6(123) (tasting).

e. 701—1003.7(123) (sampling).

f. 701—1003.8(123) (trade spending).

g. 701—1003.14(123) (sponsorships and special events).

h. 701—1003.15(123) (participation in educational seminars and retail association activities).

1003.16(2) Records shall state the following:

a. The name and address of the retailer receiving the item.

b. The date the item was furnished, sold, given, loaned, leased, or rented.

c. The item furnished.

d. The industry member's laid-in cost of the item furnished.

e. The charges to the retailer for the item.

1003.16(3) Commercial records or invoices may be used to satisfy the requirements of this rule provided all of the required information appears on the record or invoice.

1003.16(4) Records shall be open to representatives of the department during normal business hours of the industry member and may be subject to administrative subpoena issued by the department.

This rule is intended to implement Iowa Code sections 123.33 and 123.186.

PART III

The rules in this part specify industry member practices that are a means to induce a retailer and that are prohibited. The rules apply to transactions between industry members and retailers.

701—1003.17(123) Equipment, furnishings, fixtures.

1003.17(1) An industry member is prohibited from directly or indirectly giving, selling, renting, or lending equipment, furnishings or fixtures to a retailer for use by the retailer or in the retail establishment.

1003.17(2) A prohibited indirect inducement includes but is not limited to obtaining equipment, furnishings, or fixtures for a retailer through a third-party arrangement where the resulting benefits flow to an individual retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.18(123) Free warehousing prohibited. An industry member is prohibited, directly or indirectly, from providing free warehousing of products for a retailer by delaying delivery of alcoholic liquor, wine, or beer beyond the time that payment for the product is received or, if a retailer is purchasing on credit, delaying final delivery of products beyond the close of the period of time for which credit is lawfully extended.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.19(123) Extension of credit and prepaid accounts.

1003.19(1) *Extension of credit.* An industry member is prohibited from extending credit on the sale of alcoholic liquor or beer to a retailer. An industry member may extend credit to a retailer on the sale of wine for not more than 30 days from the date of the sale.

1003.19(2) *Prepaid accounts.*

a. An industry member may establish prepaid accounts in which retailers deposit a sum of money to pay for future purchases of alcoholic beverages products.

b. An industry member may not hold the money deposited in a prepaid account for future payment of a debt.

c. An industry member shall transfer the amount of the invoice from the retailer's prepaid account each time that the industry member makes a sale and a delivery to the retail establishment.

d. An industry member is not required to establish separate escrow accounts for prepaid accounts.

e. An industry member is responsible for accurately and honestly accounting for the funds held in a prepaid account.

f. A retailer may withdraw the money placed in a prepaid account at any time.

g. An industry member is prohibited from utilizing prepaid accounts to require a retailer to purchase any quota of alcoholic liquor, wine, or beer.

This rule is intended to implement Iowa Code sections 123.45 and 123.181(2).

701—1003.20(123) Quota sales. An industry member is prohibited from requiring a retailer to purchase and sell any quota of alcoholic liquor, wine or beer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

701—1003.21(123) Tie-in sales. An industry member is prohibited from requiring a retailer to purchase one product in order to purchase another. This prohibition includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not prohibited from selling at a special combination price, two or more kinds or brands of products to a retailer, provided that the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product not wanted by the retailer.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

PART IV

The rule in this part specifies that exclusive outlet arrangements with retailers are prohibited. The rule applies to transactions between industry members and retailers.

701—1003.22(123) Contracts to purchase alcoholic liquor, wine, or beer.

1003.22(1) *Implied or express contracts.*

a. Any contract or agreement, written or unwritten, that has the effect of requiring the retailer to purchase alcoholic liquor, wine, or beer from the industry member beyond a single sales transaction is prohibited, except as provided in paragraph 1003.22(1)*"b."* Examples of such contracts are:

(1) An advertising contract between an industry member and a retailer with the express or implied requirement of the purchase of the advertiser's products.

(2) A sales contract awarded on a competitive bid basis that has the effect of prohibiting the retailer from purchasing from other industry members by requiring that, for the period of the agreement, the retailer purchase a product or line of products exclusively from the industry member or requiring that the retailer purchase a specific or minimum quantity during the period of the agreement.

b. An industry member and a retailer may enter into a supply contract for one year or less under which the industry member agrees to sell alcoholic liquor, wine, or beer to the retailer on an "as needed" basis provided that the retailer is not required to purchase any minimum quantity of such product.

1003.22(2) *Third-party arrangements.*

a. Industry member requirements, by agreement or otherwise, with nonretailers that result in a retailer's being required to purchase the industry member's products are prohibited, regardless of whether the agreement or other arrangement originates with the industry member or the third party.

EXAMPLE: A supplier enters into a contractual agreement or other arrangement with a third party. This agreement or arrangement contains an industry member requirement as described above. The third party—a ballclub or municipal or private corporation not acting as retailer—leases the concession rights and is able to control the purchasing decisions of the retailer. The third party, as a result of the requirement, by agreement or otherwise, with the industry member, requires the retailer to purchase the industry member's products to the exclusion, in whole or in part, of products sold or offered for sale by other industry members.

b. Prohibited business arrangements between an industry member and a third party may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value.

This rule is intended to implement Iowa Code sections 123.45 and 123.186.

PART V

The rule in this part specifies industry member practices that are a means to induce a retailer and that are prohibited. The rule applies to transactions between industry members and employees, officers, or representatives of retailers.

701—1003.23(123) Commercial bribery. An industry member is prohibited from offering or giving a retailer free trips, bonuses or prizes based on sales of the industry member's alcoholic beverages products.

This rule is intended to implement Iowa Code section 123.186.

PART VI

The rules in this part specify sales arrangements that are prohibited. The rules apply to transactions between industry members and trade buyers.

701—1003.24(123) Consignment sales. An industry member is prohibited from selling alcoholic liquor, wine, or beer to a retailer on consignment. Consignment means a sale under which the retailer is not obligated to pay for the alcoholic liquor, wine, or beer, until the product is sold by the retailer.

This rule is intended to implement Iowa Code section 123.186.

701—1003.25(123) Return of alcoholic liquor, wine, and beer. An industry member may accept the return of alcoholic liquor, wine, and beer for ordinary and usual commercial reasons but is not obligated to do so.

1003.25(1) *Ordinary and usual commercial reasons for exchanges and returns.*

a. Defective products.

(1) Products that are unmarketable because of product deterioration, leaking containers, damaged labels, or missing or mutilated tamper-evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness.

(2) Freshness dating. An industry member may accept a return of beer for cash or credit against outstanding indebtedness or exchange the beer for freshness reasons provided all of the following conditions are met:

1. The manufacturer of the beer has policies and procedures in place that specify the date the retailer must pull the product.

2. The industry member's freshness return/exchange policies and procedures are readily verifiable and consistently followed by the industry member.

3. The beer container has identifying markings that correspond with the pull date.

4. The beer product pulled by the trade buyer may not reenter the retail marketplace.

b. Error in products delivered. Any discrepancy between products ordered and products delivered may be corrected, within a reasonable period after delivery, by exchange of the products delivered for those that were ordered, or by a return for cash or credit against outstanding indebtedness.

c. Products that may no longer be lawfully sold. Products that may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in regulation or administrative procedure over which the trade buyer or an affiliate of the trade buyer has no control, a particular size or brand is no longer permitted to be sold.

d. Termination of business. Products on hand at the time a trade buyer terminates operations via cancellation of the trade buyer's license or permit may be returned for cash or credit against outstanding indebtedness. This does not include the temporary seasonal shutdown of a trade buyer holding a 12-month license or permit.

e. Termination of franchise. When an industry member has sold products for cash or credit to one of its wholesalers and the distributorship arrangement is subsequently terminated, stocks of the product on hand may be returned for cash or credit against outstanding indebtedness.

f. Change in product. Except as provided in paragraph 1003.25(2)*"b,"* a trade buyer's inventory of a product that has been changed in formula, proof, label, or container may be exchanged for equal quantities of the new version of that product.

g. Discontinued products. When a producer or importer discontinues the production or importation of a product, a trade buyer's inventory of that product may be returned for cash or credit against outstanding indebtedness.

h. Seasonal dealers. Industry members may accept the return of products from retailers holding an eight-month seasonal license or permit upon cancellation of the license or permit. These returns shall be for cash or for credit against outstanding indebtedness.

1003.25(2) *Reasons not considered ordinary and usual.* The following are not considered ordinary and usual commercial reasons for exchanges and returns. Exchanges and returns for these reasons are prohibited.

a. Overstocked or slow-moving products.

b. Products for which there is only a limited or seasonal demand.

This rule is intended to implement Iowa Code section 123.186.

PART VII

The rule in this part governs violations of rules within this chapter.

701—1003.26(123) Contested case—burden. In any contested case alleging a violation of this chapter, the burden of demonstrating compliance with the lawful requirements for retention of the license or permit or certificate of compliance shall be placed on the licensee, permittee, or certificate of compliance holder.

This rule is intended to implement Iowa Code sections 17A.18(3) and 123.39.

ARC 8865C

INSURANCE DIVISION[191]

Adopted and Filed

Rulemaking related to timely payment of pharmacy claims

The Insurance Division hereby amends Chapter 59, "Pharmacy Benefits Managers," Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is adopted under the authority provided in Iowa Code section 510B.11 and 2022 Iowa Acts, House File 2384, section 22.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code chapter 510B.

Purpose and Summary

This amendment updates Chapter 59 to reflect changes necessary to conform with statutory provisions and reduce harm to public welfare by ensuring the timely payment of pharmacy claims.

Public Comment and Changes to Rulemaking

Notice of Intended Action for this rulemaking was published in the Iowa Administrative Bulletin on November 27, 2024, as **ARC 8429C**. A public hearing was held on the following date(s):

- December 19, 2024

This rulemaking was also Adopted and Filed Emergency and published in the Iowa Administrative Bulletin as **ARC 8427C** on the same date.

The public hearing was attended by members of the public; however, no public comments were received at the public hearing.

The Division received written comments from AlignRx, the Iowa Pharmacy Association (IPA), the National Association of Chain Drug Stores (NACDS), and the Pharmaceutical Care Management Association (PCMA). The comments support striking the "or increase" language.

No changes from the Notice have been made.

Adoption of Rulemaking

This rulemaking was adopted by Douglas Ommen, Iowa Insurance Commissioner, on January 14, 2025.

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

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

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Review by Administrative Rules Review Committee

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

Effective Date

This rulemaking will become effective on March 12, 2025, at which time the Adopted and Filed Emergency rulemaking is hereby rescinded.

The following rulemaking action is adopted:

ITEM 1. Amend rule 191—59.3(510B) as follows:

191—59.3(510B) Timely payment of pharmacy claims.

59.3(1) All benefits payable under a pharmacy benefits management plan shall be paid as soon as feasible but within 20 days after receipt of a clean claim when the claim is submitted electronically and shall be paid within 30 days after receipt of a clean claim when the claim is submitted in paper format.

59.3(2) A payment to the pharmacy for a clean claim is considered to be overdue and not timely if not paid within 20 or 30 days, whichever is applicable. If a clean claim is not timely paid, the pharmacy benefits manager must pay the pharmacy interest at the rate of 10 percent per annum commencing the day after any claim payment or portion thereof was due until the claim is finally settled or adjudicated in full.

59.3(3) A pharmacy benefits manager may demonstrate the date a claim is paid by a mail record or a bank statement.

59.3(4) Pursuant to Iowa Code section ~~510B.4 and paragraph 59.4(1)"j,"~~ 510B.8C, a pharmacy benefits manager shall not retroactively reduce ~~or increase~~ reimbursement, through adjustment or reconciliation or any other means, of a clean claim paid to pharmacies.

[Filed 1/17/25, effective 3/12/25]
[Published 2/5/25]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/5/25.

REPUBLICATION OF IOWA ADMINISTRATIVE CODE—ADDITION OF FUTURE CHAPTER RESCISSION DATES

The Administrative Code Editor provides this informational notice that concurrently with the publication of the February 5, 2025, Iowa Administrative Bulletin and Iowa Administrative Code Supplement, the Legislative Services Agency is republishing the Iowa Administrative Code in full. All rules will be republished. This republication is necessary to complete a transition to new document processing software for publication of rules and rulemaking documents that began in July of 2024. Additionally, the republication will include in the heading of each chapter of rules the future rescission date of the chapter pursuant to Iowa Code section 17A.7(3) as enacted by 2024 Iowa Acts, Senate File 2370. Chapters exempt from the rescission process will be noted accordingly. The republication will not result in substantive changes to rule content, but nonsubstantive changes to the style and format of the Iowa Administrative Code can be expected as a result of the republication. While the new software has been tested extensively, errors resulting from the republication may still occur. To report any errors that may result from the republication, please contact the Publications Editing Office at AdminCodeOffice@legis.iowa.gov or 515.281.3355.